











A COMPLETE  
SYSTEM OF PLEADING;  
COMPREHENDING THE MOST  
APPROVED PRECEDENTS and FORMS of PRACTICE;  
CONSISTING OF  
*SUCH AS HAVE NEVER BEFORE BEEN PUBLISHED:*  
WITH AN  
INDEX to the PRINCIPAL WORK,  
INCORPORATING AND MAKING IT A CONTINUATION OF  
TOWNSHEND's and CORNWALL's TABLES,  
TO THE PRESENT TIME;  
AS WELL AS AN  
INDEX of REFERENCE to all the ANCIENT and  
MODERN ENTRIES extant.

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By JOHN WENTWORTH, Esq.  
OF THE INNER TEMPLE, BARRISTER AT LAW.

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*Nē quæ Studio disposita fidei  
Intellecta priusquam sint contempta relinquant.* LUCRET.

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V O L. X.

CONTAINING  
ERROR—EJECTMENT—QUARE IMPEDIT—REAL  
ACTIONS—PRACTICAL FORMS—AND  
GENERAL INDEX.

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L O N D O N:  
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**T**HIS Tenth Volume comprehends and closes the different Heads of pleading and practice of which I originally ventured to give the outline, and it seems necessary to open a more explicit view of the contents of the whole by way of general Direction, to make them plain and useful to the Practitioner.

It will be sufficient to apprise the Student that I have entirely thrown out the old antiquated Heads farther than they are now in practical use, as ANNUITY, Proceedings in AUDITA QUI RELATA, and others (for it might seem by the Preface to my first Volume I meant to include the former Head, with other old Proceedings, which I since thought better not to do, to the exclusion of more useful matter) ; and that there is a slight *disarrangement* in this Volume, namely, in ERROR, which ought strictly to follow every other head. My reason for it is, that I had completed it after the *personal* Actions, before *mixed* and *real* actions ; and it was convenient to me, to prevent stopping the press. Having then in the preceding nine Volumes disposed of *personal* Actions, and in this Volume Proceedings in ERROR ; the MIXED Actions are EJECIMENT and QUARE IMPEDIT : in the former I give but few Forms, because of Mr. *Serjeant Runnington's* very excellent book on that head, containing most correct and valuable

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valuable ~~Precedents~~ ; in the latter they are sufficiently varied for all the common cases that happen, with a most ample INDEX, after great labour and difficulty in the execution of it. Then follow REAL ACTIONS, the INDEX, such of my own Precedents, and the distribution of them in their order, will be found under the Head ACTIONS REAL in the GENERAL INDEX. The modern References follow their different Heads, and the more ancient would have swelled my Work to a greater extent than I at first proposed to myself; or could I be persuaded they can be found at this day of much use to the Profession.

The PRACTICAL FORMS, or PARTES PLACITANDI (of the Record), is a part of the Work that I confess has been more troublesome, as it is my anxious wish to give it a clearness, that the Student might not be at a loss to find any *Form*, *Writ*, or *Part* of the Record, in any Action; and the Mode I have attempted will shew my solicitude in a circumstance that at first almost deterred me from the attempt; but after consideration I have led myself to believe will be highly favourable and auxiliary to my own Volumes. The Public are already in possession of Mr. *Tidd's Practice of the Court of King's Bench*, and that it is his intention to give an *Appendix of Forms*, from the Commencement to the End of a Suit. The luminous Method of his Book immediately suggests the order in which the Forms and Parts of the Record stand, and may be easily given; but I was afraid to interfere with his work in a Plagiarism so palpable, especially much indebted as I am for his free communications; and also in some sort as an Encourager of this Undertaking, it determined me therefore to adopt the following Plan,

Plan, which I can venture with confidence to assure the Student he will find more and more easy, and justify my conjecture above, that the Gentleman's Book to which I allude may be made useful to my own.

Under the Head of PRACTICAL FORMS will be found all the Forms that may be reducible to small distinct Heads, and among them the Forms, particularly of PARTES PLACITANDI in the INDEX to FORMS, alphabetically disposed; so that by adverting to the part, such as *Oyer*, *Retraxit*, *Cesset Executio* (I instance these because they are Parts of the Record not connected), or any other, will be distinctly pointed out, with reference to the Page and the Part of Pleading. If, therefore, the Body of PRACTICAL FORMS are resolvable into these Heads, and the *Partes Placitandi*, or *Forms*, are arranged so as to give instantaneous Reference to it, it will follow, that, considering the Forms in their *Commencement*, in the *intermediate*, and *final* Stage of a Suit, will considerably assist the Practitioner. This I have also attempted, and, to my own mind, find it clear of all objection or difficulty; yet with proper deference to an enlightened and learned Profession.

In the Reference to the modern Books of Practice I have limited myself to *one* of the most useful of them in the *King's Bench*; for as all these Books are considered more for their *use* (in the history of running about to the different offices), than their *authority*, (unless it be the Practice of B. R. by Mr. *Tidd*, which may be called the Polar Star of the Practitioner in that Court), and the proceedings in the *two* courts vary so little, except

except those to be met with in my own Precedents, I have not indexed them.

To conclude with one plain Direction in all instances throughout the Work :—The GENERAL INDEX contains the Leading Titles, such as ABATEMENT, ACCOUNT, ASSUMPSIT, &c. and takes up such as are by accident omitted in the Work, and directs to the Volume, in which will be found an Analysis to each, with a copious Index to follow the Analysis under figures within *crotchets* on the left hand. In all the *personal* and *mixed* Actions, (to be more particular) for Declarations *see* the GENERAL INDEX, referring to the Heads in the different Volumes ; such as are omitted will be found under the Head in the GENERAL INDEX. For Pleas, *see* that Head ; in the GENERAL INDEX such as happen to be omitted in the *Index to General Heads* will be found. So Replications, Rejoinders, &c. So far as to the Declarations, Pleas, &c. : But for a Judgment in any Action, *see* JUDGMENTS in that Action in the GENERAL INDEX—DEMURRERS, &c. —POSTEAS, &c. ; and for a Form, *see* PRACTICAL FORMS, added to the General Index. For the *Writs*, *Forms* of beginning and ending a Declaration in Courts above, and inferior Courts, Forms of Pleas in Courts below, the *Partes Placitandi* of the Record, and other miscellaneous Forms. ACTIONS REAL will be found only in the GENERAL INDEX under the Head of ACTIONS—the Heads that arise out of the Record, or, in most instances, the particular Parties to the Record—as *Bankrupts*—*Insolvents*, and their Assignees—*Baron and Feme*—*Chancery*—*Clergymen*—*Corporations*—even to *Pleas*—*Replications*—*Rejoinders*—in their Alphabetical Order ; and under REAL ACTIONS

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in the General Index will be found DOWER, FORMEDON, PARTITION, &c.

To those who mistake multiplicity for confusion, and do not readily discriminate the Forms, multitudinous as they are, to such I repeat (who will be the only description of readers forward to object) this Volume must be eminently useful. To name only the small Head of Form of WRITS FINAL—the difference of the *Courts*—*Jurisdiction*—the *Parties* or the *Persons* to whom *directed*—the difference of *Action* suddenly evinces the necessity of the Form; and yet to a cursory view, or rather negligent mind, they will appear to be too similar. To the more discerning and distinguished Members of a truly honorable and dignified Profession I know full well how to leave the Propriety of my Remarks, and the merits (such as they are) of my Work.

This confidence not arising only from the vain conjecture of an experimental Author, but confirmed by the *experience* of the thing itself through the tardy progress of ten heavy Volumes, induces me to announce thus early my intention to engraft the Doctrine and Principles of Pleading upon the Precedent and Form itself; to make in pleading the necessary avowment, and, assuming the shape of a *legal Argument* (inverting a little the ordinary course of reasoning from *particulars* to *generals*), to shew where the *Form* of the *Action* embodies the *principle*; and in the practical Forms to accompany it with the History and Reason of the Practice,

This is by no means a new idea, though never before attempted. The late Lord Mansfield frequently intimated how useful to the Profession (by any Gentleman of ability and leisure, who had influence to procure the suitable materials) such a Work, \* tolerably well executed, would be; and how much he would have availed himself, even on the Bench, of such a Work (with the peculiar liberality that distinguished that great man). And the late Mr. Bearcroft strongly intimated to me in different conversations I had with him respecting this Work, if I was confident enough to undertake it, the Precedents would form a Ground Work to raise, or rather to perfect and make more complete my SYSTEM of PLEADING. I have that leisure and the influence to obtain the materials, and I only want the continuance of that Patronage under the Providence that has favoured the nine preceding Volumes, to make me confident in the accomplishment of my proposed Plan; the first Part of which has so far exceeded every expectation.

The future Part of this Work is now in Preparation for the Press, and I shall hope humbly, with the Encouragement I have reason to expect, to complete this SYSTEM OF PLEADING.

J. WENTWORTH,

INNER TEMPLE,

8th June, 1799.

# ERROR.

(PROCEEDINGS IN.)



**A**FTERWARDS, to wit, on Friday next after fifteen days <sup>Assignment of errors in ejectment.</sup> of Saint Martin, in the twenty-ninth year of the reign of our lord the now king, before our lord the king at Westminster, the said Owel Jones and Edward Phillips the younger came by A. B. their attorney aforesaid, and say, that in the said record and process, and also in giving of the said judgment, there is manifest error in this, to wit, that by the record aforesaid it appears that the said judgment in form aforesaid given was given for the said R. R. against the said O. J. and E. P. whereas by the law of the land judgment in the said plea ought to have been given for the said O. J. and E. P. against the said R. R.; and they pray that the said judgment for this error and others in the said record and process may be reversed, annulled, and entirely set aside, and that they the said O. J. and E. P. may be restored to all that they have lost by the said judgment, and that the said R. R. may rejoin to the said errors, &c.

T. BARROW.

And hereupon afterwards, to wit, on the said Friday next after <sup>Joinder,</sup> fifteen days of Saint Martin, in the said twenty-ninth year of the reign of our said lord the now king, the said R. R. by his said attorney, freely comes here into court, and says that there is no error either in the record and process aforesaid or in giving the judgment aforesaid; and he prays that the said court of our said lord the king now here may proceed to examine as well the record and proceedings aforesaid as the matters aforesaid above for error assigned, and that the judgment aforesaid in form aforesaid given may be in all things affirmed; but because the court of our lord the king now here is not yet advised what judgment to give of and concerning the premises, a day is therefore given to the parties aforesaid to come before the said lord the king in eight days of Saint Hilary, wheresoever, &c. to hear the judgment aforesaid, for that the court of the said lord the king now here is not yet advised thereof, &c.

V. GIBBS.

## ERROR ON

Assignment of  
errors on a writ  
of false judg-  
ment from the  
sheriff's court  
at Somersetshire.

AFTERWARDS, on, &c. comes here the said J. T. L. by his said attorney, and says that the record and proceedings afore said, and the judgment thereon given as afore said, are vicious, erroneous, and defective in this, to wit, for that the declaration in the said record and proceedings mentioned and the matters therein contained are not sufficient in law to maintain the said E. E. in having his said action against the said J. T. L. in the following amongst other particulars, for that the said sum of money in the said first Count of the said declaration mentioned and therein alledged to have been had and received by the said J. T. L. to the use of the said E. E. is not there shewn or mentioned to have been had and received within the jurisdiction of the said county court held at J. afore said, which said matter should have been shewn in order to give the said court a cognizance thereof; and for that the said sum of money in the second Count of the said declaration mentioned and therein alledged to have been lent and advanced to the said J. T. L. is not there shewn or mentioned to be lent and advanced within the jurisdiction of the said county court, which said matters should have been shewn in order to give the said court a cognizance thereof; the same record and proceedings afore said and the judgment thereon given are also vicious, erroneous, and defective in this, for that by the record it appeareth that the judgment afore said in the plea afore said in form afore said given was given for the said E. E. against the said J. T. L. whereas by the laws of this realm judgment in the plea afore said ought to have been given for the said J. T. against the said E. E.; there is also error in this, to wit, for that in the said record and proceedings there are divers and very many miscontinuances and discontinuances in the plea and proceedings afore said, and the said record and proceedings and the said judgment are vicious, erroneous, and defective in this, for that the precept and *venire facias* therein mentioned ought by and in the record and proceedings afore said to have been continued from the said county court held the twenty-eighth day of March, A. D. 1787, to the twenty-fifth day of April then next following, whereas the same is not so continued, but wholly omitted, and nothing appears to have been done at the said county court held on the said twenty-eighth day of March 1787 either by continuance from the same or an appearance of the parties shewn to have been made thereat, or any day given at that court to the said parties; the same record and proceedings, and also the said judgment, are also vicious, erroneous, and defective in this, for that the several proceedings afore said are in the said record set out by way of recital, and not as done at the present time of holding the said courts in the said record and proceedings mentioned; the same are also vicious, erroneous, and defective in this, for that in the said judgment in the said plaint therein mentioned it is *commanded*, whereas it ought to have been *considered*, and not commanded by the court there that the said E. E. do recover of the said J. T. L. his damages, &c. therein mentioned; and so the said J. T. L. says, that the judgment

## FALSE JUDGMENT.

aforesaid given in the said county court before the said sheriff is false and erroneous, and prays that the said judgment for the errors aforesaid and other errors in the said record and proceedings aforesaid being may be reversed, annulled, and held void, and that he the said J. T. L. may be restored to all things which he hath lost on occasion of the said judgment.

S. LE BLANC.

AFTERWARDS, to wit, on the said first day of the next general session of assize here at L. holden, to wit, on, &c. in the nineteenth year of the reign of his present majesty king George the Third, here cometh the said J. S. by A. B. his attorney, and saith, that false judgment was given against him in the plea aforesaid in this, that upon the trial of the issue aforesaid to swear the jurors aforesaid or to take down minutes of evidence adduced upon such trial, and make a proper record or entry of the verdict of the jurors aforesaid upon the trial aforesaid, but that some other person not duly and legally qualified or authorized attended the said court to try the said cause, who set down and recorded the verdict, but neglected to take down the minutes of the evidence given in the said cause to the jurors aforesaid, as is common and usual upon trials in the said court, to the great and manifest injury of the said J. S. and also that the jurors aforesaid upon the trial of the issue aforesaid were not unanimous, neither did they assent or agree in giving the verdict aforesaid, as by law they ought to have done, but that certain of the jurors aforesaid did dissent and vary upon the verdict aforesaid at the time the same was given and recorded, to wit, at, &c. in, &c. : And the said J. S. says that false judgment was given against him in the plea aforesaid, and prays that the judgment aforesaid, being as well illegal as unjust and false, may be revoked, annulled, and held for nothing, and that he may be restored to all things which he hath lost on occasion of the said false judgment.

Assignment of errors in a writ of false judgment in the common pleas at Lancaster.

LISTER } AFTERWARDS, to wit, on Tuesday from the day  
against } of Saint Martin, in fifteen days in this same term, be-  
ROE. } fore our lord the king at Westminster, comes the said  
George, by A. B. his attorney, and says, that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error in this, to wit, that the declaration aforesaid, and the matters therein contained, are not sufficient in law for the said R. to have his said action against the said G. ; there is also error in this, to wit, that by the record aforesaid it appears that judgment in the plea aforesaid was given for the said Richard against the said George, when by the law of the land judgment in the said plea ought to have been given for the said George against the said Richard; there is also error in this, to wit, that by the record it appears that the said George was attached by writ of our lord the king to answer the said Richard in the plea aforesaid, yet there is not any original writ filed or remaining of record

Assignment of errors in ejectment. Declaration insufficient. Error in giving judgment. No original certiorari to *custos rotule* rum prayed.

## ERROR IN PARLIAMENT.

in the custody of the keeper of the writs and rolls of the court of our lord the king of the bench to warrant the proceedings aforesaid in the record aforesaid, therefore in that the said judgment is manifestly erroneous; and thereupon the said George prays a writ of our said lord the king of *certiorari* to be directed to the keeper of the writ and rolls of the said court of our lord the king of the bench to certify to our said lord the king more fully the truth, and it is granted to him, &c. : And the said George also prays that the judgment aforesaid for the errors aforesaid and other errors in the record and proceedings aforesaid being may be reversed, annulled, and held for nothing, and that he may be restored to all things which he hath lost by occasion of the said judgment, and that the said Richard may rejoin to the errors aforesaid above assigned, &c.

Assignment of common errors in parliament on information in the nature of writs. AFTERWARDS, to wit, on Thursday the twenty-seventh day of May, in the fiftenth year of the reign of our sovereign lord George the Second, by the grace of God, of Great Britain, &c. before our lord the king and the peers of this realm, in the present parliament at Westminster, in the county of Middlesex, assembled, comes the said R. T. in his proper person, and says, that in the record and process aforesaid, as also in giving of the judgment aforesaid in the same court of our said lord the king before the king himself given there is manifest error in this, to wit, for that by the record aforesaid it appears that the judgment aforesaid in form aforesaid given was given for the said lord the king against the said R. T. nevertheless by the law of the land the same judgment ought to have been given for the aforesaid R. T. against the said lord the king, therefore in this it is manifest error; wherefore the said R. T. prays that the judgment aforesaid for that and other errors in the record and process aforesaid may be reversed, annulled, and set aside, and that the said R. T. may be restored to the said office, liberty, privileges, and franchises by him claimed as aforesaid, and that he may be dismissed and discharged of and from the premises above charged upon him, and that the aforesaid J. B. coroner and attorney of our said lord the king in the said court of our said lord the king before the king himself, who for our said lord the king in this behalf prosecuteth, may rejoin for our said lord the king to the said errors.

Assignment of errors in the exchequer chamber. The plaintiff in the original suit called by Christian W. R. and T. H. by A. B. their attorney, and say, that in the original action died after interlocutory judgment, and before inquiry executed; and is now a suggestion of his death, but judgment given against him and the other defendants. AFTERWARDS, to wit, on the sixth day of November, in this same term, before the justices of our lord the king of the bench at Westminster, and the barons of the exchequer of our lord the king at Westminster, of the degree of the coif in his said majesty's exchequer chamber at Westminster aforesaid, come the said W. R. and T. H. by A. B. their attorney, and say, that in the original action died after interlocutory judgment, and before inquiry executed; and is now a suggestion of his death, but judgment given against him and the other defendants.

## EXCHEQUER CHAMBER.

the record and proceedings aforesaid there is manifest error in this, to wit, for that by the record and proceedings aforesaid it appears that the judgment aforesaid in form aforesaid given is given for one C. B. against the said W. R. T. H. and W. H. whereas the said judgment ought to have been given for the said W. R. and T. H. against the said C. B. therefore in this there is manifest error; there is also error in this, for that it appears by the record and proceedings aforesaid that the judgment aforesaid is given against the said W. R. T. H. and W. H. when in fact the said W. R. after the exhibiting the bill in this said suit, and before the execution of the inquisition of damages mentioned in the said record and proceedings, to wit, on, &c. in the first year of the reign of our sovereign lord the now king, at, &c. died, and therefore the said W. R. ought to have been suggested on the record of the said proceedings, and the inquisition of damages should only have been taken, and the final judgment aforesaid been given against the said W. H. and T. H. therefore in this there is manifest error, and this they are ready to verify; wherefore they pray that the judgment aforesaid by reason of the aforesaid errors and of other errors appearing in the record and proceedings aforesaid be reversed and wholly had for nought, and that the said W. H. and T. H. be restored to all things which they have lost on occasion of the aforesaid judgment, and that the said C. B. may rejoin to the said errors.

*Drawn by MR. WARREN.*

AFTERWARDS, to wit, on, &c. in this same term, before our lord the king, at Westminster, comes the said I. A. by A. B. his attorney, and saith, that in the record and process aforesaid, and also in giving the judgment aforesaid there is manifest error in this, to wit, for that by the record aforesaid it appears that the judgment aforesaid, in the plea aforesaid given, was given for the said R. G. against the said I. A. whereas by the laws of the land of this kingdom judgment in the same plea ought to have been given for the said I. A. against the said R. G. therefore in that there is manifest error; there is also error in this, for that in and by the record aforesaid it appears that the said I. A. appeared by an attorney, whereas at the time of such his appearance and at the time of obtaining and recovering the judgment aforesaid, he the said I. A. was an infant under the age of twenty-one years, to wit, of the age of twenty years and no more, therefore in that there is also manifest error; therefore the said I. A. prays that the judgment aforesaid for the errors aforesaid in the record and proceedings aforesaid may be reversed, annulled, and held for nothing; and that he the said I. A. may be restored to all things he hath lost on occasion of the said judgment, and that the said R. G. may rejoin to the said errors, &c.

*Assignment  
errors in B.,  
of matter of  
and matter  
law (to wit,  
judgment  
erroneous,  
that infant  
appeared by att  
ney), for wh  
defendant in  
ror demurrer.*

And the said R. G. saith, that the said assignment of errors, in manner and form as the same is above made and set forth, is insufficient in law to reverse or annul the said judgment, for that

## ERROR

the said assignment of errors is double, and containing an assignment of errors in law and error in fact; wherefore the said R. G. prays judgment, and that the said judgment may be affirmed, &c.

W. H. ASHHURST.

The judgment upon this demurrer should be *quod affirmetur*, vide 1. Stra. 439.

**Younger.**

And the said I. A. saith, that the said assignment of errors by him above made is sufficient in law to reverse and annul the said judgment, which said assignment he the said I. A. is ready to verify and prove, as the Court here shall direct; wherefore inasmuch as the said R. G. doth not answer or deny the same, he the said I. A. as before prays that the judgment aforesaid, for the errors in the record and proceedings aforesaid, may be reversed, annulled, and held for nothing; and that he the said I. A. may be restored to all things which he hath lost on occasion of the said judgment.

Assignment of errors, that the defendant's plea was not sufficient to bar the plaintiffs of their action, but was defective, and no answer to the plaintiff's declaration, &c. &c.

AND afterwards, to wit, on &c. in the twenty-fifth year of the reign of our sovereign lord George the Third, by the grace of God, of Great Britain, &c. before the said justices of the common bench and barons of the exchequer, come the said London Assurance of houses and goods from fire by the said A. B. their attorney, and say, that in the record and proceedings aforesaid, and also in giving the judgment aforesaid there is manifest error in this, for that it appears by the said record that the said plea so pleaded by way of reply to the said plea of the said I. S. and W. C. lastly above pleaded in bar, and the matters in the same contained, are sufficient in law for the said London Assurance to have and maintain their said action thereof against the said I. S. and W. C. yet the said plea so pleaded by way of reply appears to have been adjudged insufficient; there is also error in this, that it appears by the record aforesaid that the said plea so lastly above pleaded in bar by the said I. S. and W. C. and the matters therein contained, are not sufficient in law to bar the said London Assurance from having and maintaining their aforesaid action against the said I. S. and W. C.; but the said plea is defective and insufficient in this (amongst other particulars), to wit, that the said plea is no answer to the aforesaid declaration of the said London Assurance, nor is the damage or cause of action therein specified in any manner denied or avoided thereby, but on the contrary the said plea admits and confesses such damage and cause of action without sufficiently avoiding the same; and also for that no judgment is in the said plea alledged as stated to have been obtained or given upon the said verdict in the said plea mentioned; and for that it is not averred or shewn in the said plea that the said London Assurance were or are in any manner privy to, or concerned or interested in the said action or suit so alledged to have been brought by the said I. S. as aforesaid, or that the said

## ON BILL OF EXCEPTIONS.

Said action was brought or commenced in trust to or for the use or benefit of the said London Assurance, or for any other or greater damages than what the said I. S. had sustained, over and besides the said sum of sixteen hundred pounds so paid to him by the said London Assurance, nor is the said jury who gave the said verdict in the said plea set forth, alledged to have given or assessed any other than such extra damages beyond the said sixteen hundred pounds; but on the contrary it appears and stands admitted by the record aforesaid, that the said jury, by their said verdict found, assessed and gave to the said I. S. such extra damages only; and also for that it is not averred, or alledged in the said plea that the said I. S. hath reimbursed, paid over, or in any manner whatsoever accounted with the said London Assurance for any part for which he obtained such verdict as aforesaid, or that he is liable or compellable so to do; but on the contrary it appears by the aforesaid record and proceedings, that the said verdict was obtained by the said I. S. for his own proper benefit alone; and also for that the said verdict, in the said plea mentioned, is not shewn or alledged to have been, or to be recovered, nor is the same offered to be verified or proved by any record thereof; there is also error in this, to wit, that the said judgment so given for the said I. S. against the said London Assurance when by the law of the land judgment ought to have been given in the plea aforesaid for the said London Assurance against the said I. S.; wherefore the said London Assurance pray that for the errors above assigned, and for other the errors in the record and proceedings aforesaid, the said judgment may be reversed, annulled, and held for nothing; and that they may be restored to all things which they have lost on occasion of the same.

I think the last assigned error would have been sufficient; but as the other errors cannot prejudice the plaintiff in error, and may in some measure open the nature of the case, and which I sup-

pose was Mr. Baldwin's intention, I think they may remain as already drawn.

THOMAS WALKER.

Upon argument, the judgment of the court of K. B. was affirmed.

AND thereupon afterwards, to wit, on, &c. in the twenty-fourth year of the reign of our sovereign lord George the Third, by the grace of God, of Great Britain, &c. before the said justices of the common bench and the barons of the exchequer, comes the said W. D. by A. B. his attorney, and saith, that the record and proceedings aforesaid, and also in the matters recited and contained in the said bill of exceptions, and also in giving the verdict and judgment aforesaid there is manifest error in this, to wit, for that the said chief justice before whom, &c. at and upon the aforesaid trial of the said issue so joined between the parties aforesaid, did refuse to admit the said evidence so offered to him on the behalf of the said W. D. as in the bill of exceptions is mentioned, that the duty of excise due and payable to his majesty for the said brandy in the record aforesaid mentioned was fully satisfied and

Assignment of errors, that the chief justice refused to admit the evidence that the defendant had fully paid the duty payable to his majesty.

## ERROR.

paid before the said brandy was landed and put on shore out of the said ship or vessel in which the same was brought and imported as aforesaid according to the form of the statute in such case made and provided, whereas by the law of the land the chief justice ought to have admitted the said evidence in this action, because the said writing or instrument of condemnation in the said bill of exceptions set forth is not conclusive evidence in this action to prove that the duty of excise had not been duly satisfied and paid before the said brandy had been landed and put on shore, nor of sufficient force and validity to exclude the true and real evidence of the fact to enable the said W. D. to maintain his said action against the said E. C. for the trespass aforesaid; there is also error in this, for that by the record and proceedings aforesaid it appears that the verdict given on the said trial of the said issue between the parties aforesaid was given for the said E. C. against the said W. D. whereas by the law of the land in case the said evidence had been admitted as it ought to have been the verdict upon the said issue should and ought to have been given for the said W. D. against the said E. C.; there is also error in this, that by the record and proceedings aforesaid it appears that the judgment aforesaid in form aforesaid was given for the said E. C. against the said W. D. whereas by the law of this realm judgment should and ought to have been given for the said W. D. against the said E. C.; and thereupon the said W. D. prays that the judgment aforesaid for the error aforesaid and others in the record and proceedings aforesaid may be reversed, annulled, and held for nothing, and that he may be restored to all things he hath lost on occasion of the same.

THO. DAVENPORT.

# I N D E X.

## GENERAL DIVISIONS OR HEADS, AND LEADING TITLES IN THE CIVIL DIVISION.

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### E R R O R.

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#### A N A L Y S I S.

##### ERROR.

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ASSIGNMENTS IN.  
JUDGMENTS IN.

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1. H. Bl. 562

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ing him an unreasonable time without bringing him to a court martial, at which he was honourably acquitted. "First declaration not sufficient in law to sustain the action; second, judgment ought to have been given for defendant; third, damages are assessed generally, but defendant had a probable cause to arrest; fourth, the court of exchequer had not cognizance of the quession; fifth, damages have been assessed for the loss of prize money, to which plaintiff is still entitled; sixth, damages given for delay in bringing plaintiff to a court martial, for which no action will lie."

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2. H. Bl. 18 to 22.

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On outlawry in Lancaster, *Reg.* 133.

By *executor* on outlawry against testator, *Ra.* 303. 306. On outlawry, where the record remains in B. R. *Reg.* 132. By husband and wife on outlawry and waiver, 132. As well in the rendition of the judgment as in the publication of outlawry, 7 H. 6. 44.

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That plaintiff in writ of error died pending the writ, new writ pleaded by administrator, who alleges error in the outlawry, *Co. Ent.* 153.

That there is another named in the same original, when plaintiff brought another *scire facias* to hear errors, and defendant was not sued thereon, and prays that outlawry be reversed for the errors assigned, and it is, *Ra.* 295. *Non omittas scire facias* awarded on error in outlawry, *Jud.* 330.

Judgment that outlawry be reversed for the errors assigned and others in the proceedings, *Ra.* 303. 311. That outlawry after judgment be reversed, and judgment stand, *Co. Ent.* 154. That judgment and outlawry be reversed after *nilhil* returned to two *scire facias*, *Jud.* 263.

That immediately on the award of the said writ of *certiorari*, before any certificate thereon made and returned, a writ of *scire facias* is now awarded to make known to R. that he be before our lord the king on the octave of Hilary then next, wheresoever, &c. to hear the record and proceedings aforesaid, the record not then being sent to our lord the king, *Ibid.*

That the court of our lord the king in Ireland proceeded to revoke judgment rendered without certifying the original, or any other certificate or answer of the said justices of the bench aforesaid thereto as above appears of record, 357.

- That the court in Ireland revoked judgment by said R. S. against the said P. C. when the judgment aforesaid ought to have been affirmed, *Ibid.*
- That plaintiff in his declaration does not shew with certainty the number of acres demised, but declares generally of lands in K. when it should have been shewn with certainty, so that the said P. may answer with certainty, *Ibid.* That plaintiff, by his declaration, does not shew for what cause, thing, or matter defendant was indebted, and that no good and sufficient consideration is specified, and judgment thereupon bad, erroneous, and void, 362.
- For that the precept of *scire facias* was only against one bail, and not the other, 362. That it appears of record, &c. that the said defendant, by his certain bill obligatory produced in court, confesses himself to owe, &c. and no writing-obligatory mentioned in the count or record, 363.
- That the attachment pleaded in bar of the action was made *pendentelite*, and so the attachment and judgment thereupon, and plea thereon pleaded, and the said judgment in the said town of L. R. thereon rendered erroneous, void, and of no effect in law, 364. That the mayor and burgesses of the town of L. R. by virtue of a certain writ of *procedendo* directed to them, bearing date as by the record of the 9th. of June. *A. Regni* 40, gave judgment aforesaid at their court held 17th. October, *Anno* 39. *Ibid.* 364.
- That the mayor, &c. gave judgment in part against the said John, when judgment ought to have been for the whole for the said John, *Ibid.*
- Error in parliament, that in reversing judgment in the court of the hustings in London rendered, and also in the rendition of the judgment aforesaid in the said court of hustings of L. thereupon by the said H. C. against F. G. by virtue of a commission, in this, that it appears that the issue first was tried by a jury returned from four wards, namely, &c. and by the record aforesaid it also appears that by ancient custom of the city said trial ought to have been made by a jury returned from the four wards adjoining the place wasted, &c. *Law Err.* 317. *Bro. R.* 373. 2. *San.* 351.
- Upon *venire facias* and *habeas corpus jur.* that the sheriff in the pannel, with the names of the jury to the *habeas corpus*, annexed one T. S. who was not returned upon the principal pannel by the late sheriff to the writ of *venire facias*, and the writs of record are not certified, *Re. Dec.* 371. *Clif.* 328.
- That declaration is not sufficient, for that it is not alleged that defendant being executor, had assets at the time of the *promise*, and the *consideration* alleged for forbearance is *nudum pactum*, and insufficient, *Re. Dec.* 389.
- That plaintiff brought his bill against defendant as executrix, and that plaintiff will recover damages of defendant herself, without stating the goods and chattels of testator, if so much in the hand, &c. *Ibid.*
- That declaration is uncertain and insufficient, and defendant, an infant, appears by attorney, when he ought to appear by guardian, *Mo. Int.* 284. Like on a judgment by *non sum informatus*, *Clif.* 327. *Re. Dec.* 262. 303.
- Errors assigned upon a writ of *false judgment* in the county court; first, for want of a warrant of attorney; second, that in praying imparlance it doth not appear by the record that day was given over until the next court, and so the action became discontinued; third, it doth not appear by the record that the plaintiff is *executor* of W. C. for that he did not produce the will in court, *Bro. Vad.* 276.
- Upon a *false judgment* in county court in case; first, that it is not shewn before whom the first court was held; second, damages laid forty pounds, when court could not hold plea of forty shillings; third, court held before the steward, and ought to be before the suitors; fourth, want of warrants of attorney, 2. *Mo. Int.* 260. *Ro. Ent.* 314. 317. 321. &c.
- Upon a writ of right; first, that the record does not state in what county the manor of H. is, nor that the manor and tenements in the writ specified were held *domino regens* or *dominico regens* as of his manor of H. aforesaid; second, that by the

the writ of right close it manifestly appears that one and the same court upon one and the same day, on the appearance of W. himself gratis, that C. and A. counted against him, &c. and judgment was given, and execution served on all, and executed when the judgment ought to have been sued out and obtained at several courts held on several days, and not on one court on the same day, &c. 2. *Mo. Int.* 275.

On false judgment, that it does not appear that any legal writ of *venire facias* was awarded, and that judgment for plaintiff ought to have been given for defendant, *Clif.* 346. and declaration is insufficient, &c.

Error assigned, that one defendant died before trial, 2. *Mo. Int.* 257. After last continuance, *Clif.* 324. 331. That plaintiff in the first action died before verdict, *Law Err.* 56. *Bro. R.* 373.

That issue was in plea of debt and *jurata* in trespass on the case, *Law Err.* 58.

That in record the several sums of money are written in *figures* instead of at large, 59.

No pledges to prosecute, want of attorney, original, and issue in *debt*, and *jurata* in *trespass*, and sums in figures, *Bro. R.* 371.

Error assigned for insufficiency of the return of the writ of enquiry, for "that it appears by the writ, was returnable on Monday next after the *quindenis* of Holy Trinity, when the *quindenis* was on Monday, and that in the same term in said court, before the king himself, there was no certain day returned, and so the plaintiff wholly discontinued before judgment, *Law Err.* 131. *Bro. R.* 370.

That there is a manifest variance between original and declaration, 1. *Bro.* 214. Not stated who was the mayor of the city of C. and that the name of the mayor is left out of the record, 122. For variance between the first declaration of the plea and declaration on which judgment was given against defendant, 2. *Bro.* 122.

In the *exchequer*, for that plaintiff, as debtor of our lord the king, brought his against defendant before the barons when he was not debtor, as he ought, 123.

That the attorney named for the parties was not attorney at the time of the trial the plea, *Ibid.* That the jury found C. a defendant, also guilty, and in the dition of the judgment of recovery no mention is made of that C. *Ibid.* That the issue whether plaintiff was a freeman or a villain of defendant belonging to his manor of S. in the county of L. was tried by men of the city of London, *Re. Dec.* 261. That defendant demanded judgment if plaintiff ought to be answered to his writ; and plaintiff, in reply, says, that he, by the said objection, ought not to be barred when *from his action*, when he ought to have said that he ought not to be barred from *answering his writ*, *Ibid.* 262.

Defendant says, that within age, could not be assigned for error, for that the jury gave a verdict to the contrary. Plaintiff says, that it could be assigned that he had no notice of trial of the issue taken against him by default. Demurrer, and after several continuances plaintiff pleads release of errors *after last continuance*, and defendant *non est factum*, and issue, *Ibid.* 205, 306.

Error assigned, that defendant being within age ought not to be taken, fined, imprisoned, and the entry ought to be *nihil de fine*, &c. 2. *T. Jud.* 143.

Error in *detinue* of one bond, for that by the record it does not appear of what the bond was, and it does not appear if there was any condition in the bond for the payment of any sum or sums of money or otherwise, as it ought, *Re. De.* 268.

That it does not appear on what day, and when the said J. S. in his lifetime requested the said W. to deliver the said bond to the said J. or on what day the said K. after the death of J. was sole, or the said E. and K. after their nuptials celebrated between them, requested the said bond, 269.

In *detinue*, that there is no writ of *scire facias* issued against T. P. to shew whether the

the conditions therein above-mentioned on the part of T. himself was performed or not, 295.

That when the said L. brought into court the said writing, and the writing at the time of the said verdict, and judgment thereon remained to be delivered to him, or whom the court should consider the jury impannelled by their verdict, did not find damages for the detention of the writing, *Ibid.*

or variance between the original and writ of *capias*, for that R. in his addition in the said original named esquire, and in his addition in the said writ of *capias* thereon issued, is named knight, *Ibid.* 301.

That the plaintiff counted by Gibson, his attorney, and the name of baptism of the said G. wholly omitted, *Ibid.* That neither the said J. M. had warrant to prosecute by said F. A. in said plea, or did said R. G. ever have any warrant to appear for R. G. in the plea, 302. 324. *Law Err.* 57. *Clif.* 324. *Bro. R.* 371.

That it is not certified by the record that plaintiff brought his original against defendant in his plea aforesaid of the debt aforesaid in the record as above specified, so that it does not appear that the justices had any legal warrant to hold said plea, *Re. Dec.* 323.

That the continuance of the plea is not certified by any record or return from the term of St. Michael till the term of the Holy Trinity, so that was wholly discontinued before judgment, 324.

That the original writ of the plaintiff aforesaid was before the justices of our lord the king of the bench is filed, and is not returned nor sent before our lord the king, *Re. Dec.* 351.

That the writ is not sufficient in law, for that in the same writ it does not appear before whom or what justices, nor in what court of our said lord the king it is returnable, *Ibid.*

That the original writ in the plea aforesaid was not entered or purchased until after the verdict given by the jury in the said plea of the day of the entry of the judgment, and that the said being so insufficient, remains of record before the justices of our lord the king of the bench, *Ibid.*

That there was no original to warrant the summons in the declaration mentioned, *Law Err.* 58. *Clif.* 325. 2. *San.* 104.

That there are not fifteen days between the day of the *teste* of the said writ of error returnable before our lord the king in Ireland and the return thereof, and therefore all proceedings thereon is without legal warrant, and void in law, *Re. Dec.* 351.

That on the adjudication of a writ of *certiorari*, &c. it is commanded to the same justices that that writ be sent to our said lord the king without delay, together with this writ, where the adjudication of the said writ was not *that* writ, but a warrant only to make out the writ and *mandamus* in form aforesaid, 356.

That the declaration is insufficient, and judgment on the verdict insufficient, *Lev. Ent.* 88.

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Rescues for a man claimed to be villain, and menacing him, where the action does not lie, *Ra.* 288. Debt against an executor on a bill for money laid out in merchandize, "that plaintiff might have his action of account against testator, and not writ of debt," *Dy.* 20. "That the consideration is not sufficient to maintain the action," *Co. Ent.* 292. "That the declaration does not maintain the plaint," 295.

In the declaration there are several insufficiencies, 292. *Ra.* 288. Process of outlawry does not lie on original, 292. Defect of warrant of attorney, 289. 346. *Dy.* 231. 262. *Vet. Int.* 136. *Aff.* 293. That warrant of attorney was *tarde* (too late taken), 8. *H.* 4. 3. That plaintiff at *nisi prius* appeared by another than in the record of the issue, *Her.* 315. That defendant in trespass being within age, appeared

peared and pleaded by attorney, *Co. Ent.* 289. That no day was given to plaintiff, and so discontinuance, 239. For that in essoin not stated in what plea, 264, 266. Death of the king, and no re-summmons, 8. *H. 4.* 3. Want of appearance, *Ibid.* Discontinuance between *venire facias* and judgment, *Ra.* 290. That day was not given to plaintiff upon award of enquiry, 292. One of plaintiffs died before judgment. Plea, still alive, *Ra.* 301. Want of original in trespass in the *post*, *Co. Ent.* 241. In *debt*, 246. Plaintiff does not answer to the matter, traverses, but pleads other matter, 295. Does not answer to plea of sole tenancy, 312. That plaintiff in his count, stating a fine levied of the advowson of a church and vicarage, does not set out what estate by the fine levied in the advowson of the vicarage, 265. That plaintiff counts of an estate in the advowson by virtue of the fine, and by force of the statute of uses, where the seisin was not by force of the statute but at common law, 265. That recital in the letters-patent ought to be pleaded, and not alleged by way of recital, 1. *Co.* 35. That defendant, by his avowry, does not pray return of cattle or damages, *Co. Ent.* 293. That *dies datus* or return of the writ does not appear of record, 238. That the sheriff, on the writ of *venire facias*, ought to have returned that defendant was summoned and not attached, 238. That K. K. was impannelled on *venire facias*, and another of the same name was put in the *distringas* and *jurata*, 249. 263. 265. That the name of one of the jury impannelled on *venire facias* was omitted in the *distringas*, 249. That *venire facias de novo* ought to have issued against the first jury, and not to impanel a new jury, 396. That *venire facias* was to try the issue of a plea in quare impedit, where it should be to recognize *fi.* &c. 265. That trial of issue of resignation of the church ought to be made by bishop's certificate and not by the country, *Co. Ent.* 265. That jury have found only part of several issue joined, and said nothing to the other issues, 288. That jury have found matter not charged or contained in the issue, *Co. Ent.* 296. That the *affixe* should remain to be taken, for that some of the recognitors had no view, and some did not come, 21. *E. 4.* 65. 22. *E. 4.* 15. That the essoin on the *venire facias* was not allowed, *Dy.* 97. That trial by *nisi prius* was on the essoin day. Defect in the verdict, *Co. Ent.* 263. That judgment against one of the tenants ought to be respited, as to the plea against the other should be determined, 312. That plaintiff's admission *within age to sue by prochain ami* was not entered in the parliament roll, *Upp.* 39. That proclamation of bastardy was unduly made, *Ra.* 289. That notwithstanding the return by the sheriffs of London on *feri facias* against executors, that he had no assets. Another writ of *feri facias*, with enquiry on *devastavit*, was made to the same sheriffs, *Co. Ent.* 271. That judgment in a plea of land was against tenant for life, and one prays in aid jointly, where the judgment ought to be against the tenant only, *Ra.* 345.

That plaintiff pleaded a sufficient plea to information of *intrusion*, and the attorney-general made an insufficient replication, and demurrer to the replication, and yet judgment against plaintiff, *Ra.* 414. *Pl.* 566. *Asb.* 282. Information of *intrusion*, that judgment on demurrer was given for defendant, whereas it should be for the king, 1. *Co.* 36.

That plaintiff in *debt* does not alledge sufficient matter in his replication to maintain his action for the breach of covenant, and judgment ought to have been given for when it was given for plaintiff in the same plea, *Co. Ent.* 245.

That the original in *formedon* did not want form, and if it wanted form it was aided by statute after verdict, and judgment ought to be for demandant, *Co. Ent.* 254. That where judgment in replevin ought to be "that the defendant recover damages," it should be recover his damages, according to the statute, 293. Where judgment was that plaintiff be in mercy for his false claim, should be, take nothing by his bill but in mercy for his false claim, *Ibid.* That jury gave aforesaid verdict whereon judgment should be for plaintiff, and the court awarded a new trial for the uncertainty, 396. That judgment was for costs on one issue tried before the

*the other* issues were tried, 288. Against one defendant in trespass, to whom plaintiff had before *released* damages, *Ibid.* For relator in information *on demurrer* to evidence, when it should be for defendant, 261. In *ejectment*, that judgment was for plaintiff, when it should be for defendant, 228. By *tenne-tenant* in *audita querela*, 238, 239. That judgment in trespass was, that defendant *be taken* when he was pardoned by a *general pardon*, *Upp.* 39. That judgment, notwithstanding the premises, was erroneously given, 8. *U.* 4. 4.

## FROM INFERIOR COURTS.

That plaint was levied *two years* after writ of right close pleaded, *Her.* 407. Plaint for cattle taken at a court held before the taking, 402. Damages alledged at ten pounds, when court have no jurisdiction beyond forty shillings, 398. So in *debt* beyond forty shillings, 398.

That in judgment in the Marshalsea neither plaintiff or defendant were of the king's household according to the statute, *Ra.* 296. Not in the declaration, *Ibid.* That *issue in court baron* was tried by the oath of twelve, when by the law of the land the court have no power to try the issue by the oath, &c. 345. That the writ of right close was directed to the bailiff and steward, where it should be directed to the bailiff only, *Co. Ent.* 307. Not stated on record in *what court* of the manor or monastery it is, *Ra.* 343. 345. Not alledge in the writ or declaration whether lands are parcel of the manor, *Ibid. Vet. Int.* 137. Not alledged whether lands are held of the manor or parcel of the same, *Ra.* 345 *Her.* 408. Of whom the manor is held, 407.

Error in *debt* in city court, 1. *Bro.* 214. 2. *Bro.* 113. 1. *San.* 89. In assize of novel disseisin in city court, whereon jurisdiction allowed, *Reg.* Disallowed, 216. Replevin, *Ra.* 306. Case, *Co. Ent.* 290. Before justices in eyre, 1. *San.* 269. *Reg.* 286.

Error in court of Lyme Regis, *Re. Dec.* 363. County court, *Bro. Vad.* 275. In post disseisin before the sheriff, *Reg.* 209. On judgment before chief justice of Ely, *Law Err.* 123. *Law. Ent.* 90. On record removed from provost court of Exeter, *Bro. R.* 361. In city court of Bristol, 1. *San.* 86.

Error in assize of lands in inferior court, *Ra.* 291. 293. 309. *Reg.* 203. 216. 217. *F. N. Br.* 24. *Her.* 20. Of rent, *Ra.* 306. Assize of *fresh force*, *Reg.* 10. In court of a liberty granted to a *parson* by deed, 132. Debt before mayor of the staple, 130. On judgment in the Marshalsea court, *Ra.* 296. *Reg.* 17. Replevin in manor court, *Co. Ent.* 292. Stannaries, 293. *Trespass* before the sheriff of London, *Reg.* 130. *Vet. Int.* 54. Hullings in London, 130. *F. N. Br.* 23. Writ commanding justices appointed to correct error in London of process sent to them, *Reg.* 34. *Alias* where *tardis* was returned to the former writ, *Reg.* 34.

## ON FINES, AND ERRORS ASSIGNED.

Writs of error on fines levied in C. B. *Ro. Ent.* 293. 2. *Bro.* 117. *Law Err.* 191. *Co. Ent.* 250. 255. *Her.* 370. 375. *Ash.* 283. *Coram nobis*, *Her.* 370. In fine surrender, where part of lands are ancient demesne, *Reg.* 13.

Executors assigned, that by *dedimus potestatem* two commissioners at least ought to take the consue of cognizors, and by the record it appears one only took, 1. *Bro.* 214. That it does not appear that *two* or more took the consue of the fine in the county of Chester, *Cif.* 330. And on alledging *kindred* by plaintiff, leave granted to purchase a better writ of error, and writ *de novo*, &c. *Ibid.* Error on fine levied at Chester, 337.

That one of cognizors was within age at the time of the levying the fine, 2. *Bro.* 120. *Co. Ent.* 256. *Her.* 375.

That two proclamations were made the same day, *Ro.* 269. *Law Err.* 193. *Co. Ent.* 251. *Her.* 273. *Ash.* 287. One proclamation on the Lord's Day, *Plo.* 265. *Dy.* 181. *Ash.* 287. Out of term, *Dy.* 181. *Ash.* 287.

Writ

Writ of error on a *fine* reciting three writs directed to chief justice, keeper of writs and the chirographer, and their return by the cousin and heir, and son and heir for default in the proclamation. On *fi re facias* defendant pleads that by the indorsement of the proclamation by the chirographer with the keeper of the writs there was a mistake in the proclamation, and that they are rightly indorsed by the chirographer; *certiorari* thereon, and on the return proclamations are amended, *Ro. Ent.* 294. *Her.* 370.

Errors assigned *within age* at the time of the levying of the fine; witnesses produced; *sci. fa.* awarded to the cognizee, who comes and has imparlance, 2. *Bro.* 120. *Co. Ent.* 257.

Errors assigned, for that two proclamations in one day, plaintiff alleges that consuee is dead, and *sci. fa.* to the heir to hear errors and judgment for plaintiff, *Law.* *Err.* 193.

Error to reverse a juror's judgment in a common recovery in the county palatine of Lancaster; errors assigned; infancy of tenant; and appearance, 2. *San.* 91. *Thef. Br.* 99. 105. 106. 108. Errors assigned, no writ of entry.

That there was no *note* whereon the fine could be ingrossed, *Co. Ent.* 232. That consueance of the fine was made before *dedimus potestatem*, and to the fine taken without warrant, 256. Default in entry of the king's silver, *Ibid.* 232. Only five proclamations, *Ibid.* 251.

Writs by husband and E. his wife on a fine levied by T. and that E. then his wife was within the age of twelve years, that she after dissented to the marriage and took another husband, and that she is yet within age. On two *sci. fa.* defendant makes default. Wife found to be within age. *Cur. adv. vult.* and fine reversed. *Her.* 375.

Imparlance to errors assigned; plea *in nullo*, &c. *cur. adv. vult.* *Sci. fa.* awarded to terre-tenants on a fine levied in Chester. *Sci. feci* returned; terre-tenants appear and *nil dicunt*, *Co. Ent.* 233.

## GENERAL ERRORS ASSIGNED.

Errors assigned generally, *Re. Dec.* 269. 370. *Mo. Int.* 282. *Bro. Met.* 263. 271. *Cl. Aff.* 111. *Law. Err.* 127. 131. 256. *Clif.* 315. 317. 322. 328. *Bro. R.* 365. 370. 2. *Ven.* 307. 2. *San.* 316. *Law. Ent.* 97.

On judgment in Wales, 2. *San.* 36. In Durham, *Ibid.* first part, 73. In county and city of Bristol, 96. In Lancaster, *Ibid.* second part, 91. Hustings in London, 2. *San.* 247.

Error because declaration is insufficient, and judgment for plaintiff, whereas it ought to be for defendant, *Cl. Man.* 228. *Mo. Int.* 282. *Clif.* 315. *Bro. R.* 370. 2. *San.* 222. In parliament, *Ibid.* 224. 399. That said declaration and matters therein are not sufficient in law, and proceedings and judgment void, *Law. Err.* 122. And judgment for plaintiff, which ought to be for defendant, *Ibid.* That judgment aforesaid above rendered by the same court of B. R. in Ireland was affirmed whereas it ought to be reversed, *Clif.* 326.

Errors assigned on an *incisment* that it was insufficient and wants form, &c. *Bro. R.* 373. That writ of *sci. fa.* and matters therein contained are not sufficient, &c. 2. *San.* 287.

Error by an *ideat* on judgment in *dower* for a third part of a manor, and judgment affirmed, 2. *San.* 328.

Error in *dower*, *Co. Ent.* 248. In *quare impedit* on a bill of exceptions, *Ro. Ent.* 293. *Co. Ent.* 364. Of a record *coram nobis*, *Ibid.* 267. *Ravishment of widow*, *Wi. Ent.* 469. *Ra.* 309. On a judgment of carrying away wife with goods of the husband, *Re. Dec.* 284.

Error in *debt*, 1. *Bro.* 214. *Law. Err.* 133. *Clif.* 314. 326. directed to the senior judge of the bench, and *Ro.* 293. *Co. Ent.* 244. 246. *Deb. on Statute*, 2. *Err.*

2. *Br.* 237. Debt by sheriff for escape against executor, 2. *Bro.* 126. Sent into *B. R.* 2. *Sau.* 98. On recognizance taken in *C. B. Ro. Ent.* 292.
- Error in ejectment, *Ro. Ent.* 292. 2. *Mo. Int.* 251. *Clif.* 321. In false imprisonment, *Re. Dec.* 255. Trespass, *Ra.* 287. 290. *Co. Ent.* 272. 288. and assault, *Mo. Int.* 279. Case *Mo. Int.* 249. By plaintiff in *replevin* on judgment against him and affirmed, 2. *Sau.* 282. By *avowant* on judgment against him. 309. In dower sent into *B. R.* *Han.* 96. Detinue, *Re. Dec.* 203. On statute of hue and cry, 269. In debt on statute, 2. *Br.* 237. In *prohibition*, *Clif.* 398. In *formation*, *Co. Ent.* 252. By the king by reason of attain in entry in the post whereon a common recovery was suffered, 240. In a plea of land, *Ra.* 289. In assize sent into the bench, *Reg.* 216. In redisseisin in *Reg.* 208. Writ of false judgment on a writ of right close, *Vet. Int.* 137. In intrusion by marriage, *Co. Ent.* 262. *Audita querela* of lands by administrator, 234. Annuity, *Ra.* 290. In information, *Co. Ent.* 257.
- That it does not appear by the declaration that tenelements are *devisable*, nor that *devisor* died, *Co. Ent.* 312. That precept should be directed to *bailiff*, and not sheriff, 315. That court was held before *steward*, when it ought to be before steward and suitors, *Co. Ent.* 293. Before sheriff and suitors, *Her.* 398. 402. That no summons was awarded, *Co. Ent.* 307. Not stated who was bailiff of the hundred, *Ra. Ent.* 315. *Dy.* 262. Not stated *who* is lord of the hundred, nor *what* court, nor who were suitors, *Her.* 404. That precept was to bailiff to make recognizance of assize to view the rent when a view should be made of the tenelements from whence the rent comes, *Ra.* 346. *Vet. Int.* 136. That assize was taken without the return of the precept of *disfranchis* of recognitors, *Ra.* 346. *Vet. Int.* 136. That plaintiff challenged certain recognitors for insufficiency, and yet the suitors caused them to be sworn, and gave plaintiff (*billam*) of the challenge, *Ra.* 346. *Vet. Int.* 136. That in the common recovery in the court of the manor it does not appear that lands are held of the manor, nor *in what* county they are, *Ash.* 309. That all the proceedings were (*gratis*) on the *same* day, when it should be on *divers* days, *Ash.* 310. Process prayed, but not shewn whether made or executed, *Her.* 408. Not shewn that the jury were elected or sworn, nor who they were, *Co. Ent.* 295. Not stated that court was held before bailiff or suitors of the manor, *Co. Ent.* 307. 314.
- Not shewn before *whom* first court was held, *Her.* 398. That precept of *venire facias* was uncertain, *Co. Ent.* 315. Seisin delivered by bailiff and not specified by *what* precept, *Her.* 408. No warrant of attorney, *Co. Ent.* 314. *Dy.* 262. *Vet. Int.* 136. *Her.* 398. Not shewn whether vouchee comes by attorney or in his own person, *Ibid.* 408. That judgment is (*in apte*) not well shewn, *Co. Ent.* 314. That judgment was *in mercy* when it should be *capiat*, *Her.* 396. Not stated before what judge judgment was given, *Co. Ent.* 307. Before suitors only, and not the bailiff, *Her.* 401. Not shewn for *what* time leave to *imparl* was given, *Ibid.*

ERROR IN THE MATTERS AS FLEADED.

- That plaintiff in his declaration for words does not alledge the place (*colloqui*) where the conversation took place, *Co. Ent.* 292. Not shewn on *what* day award was delivered, *Her.* 315. That arbitrators have not observed *submission*, *Ibid.* Not averred that he was the *beir*, 1. *Co.* 36. Not shewn *what* day defendant was seized of lands, *Co. Ent.* 238. *What* day sheriff delivered tenelements, *Co. Ent.* 238. *What* day writ was executed or inquisition taken, *Ibid.* By record of inquiry that executor wasted assets, 271. Not shewn that W. was seized of the remainder. 1. *Co.* 12. No such act of parliament, *Co. Ent.* 261. That the saving in the act is void, 1. *Co.* 36.
- That the king had not title before the inquisition, 1. *Co.* 35.
- That demise of lands in another county whereof lessor was not possessed, was void, *Co.*

*Co. Ent.* 261. That *some covert* could not surrender letter's patent to be cancelled, 1. *Co.* 35. That inquisition ought to be returned into the exchequer, and not chancery, *Ibid.* That the entry was not lawful after recovery, 1. *Co.* 12. That tenant for life is still in being, and entry unlawful, *Ibid.* 13.

ENTRIES THEREON.

Errors assigned. *Scire facias* awarded. Appearance. *Non misit breve*, *Co. Ent.* 139. 154. 250. *Scire facis* returned. Imparances to assign errors, 241. Like, and appearance and plea in *nullo*, &c. 246. 266. 292. 293. 296. Like, and *cur. adv. vult.* judgment affirmed with costs, *Jud.* 289. *Scire facias* awarded to a successor of an abbot to hear errors, *Ra.* 3:8. *Scire facias, alias*, and *pluries* awarded to hear errors, *Co. Ent.* 2:2. 289. Sheriffs return *sci. feci.* Appearance. Plaintiff alledges errors, and imparance, *Ra.* 288. 296. *Co. Ent.* 230. Return *nil habet* appearance. Plaintiff alledges errors first assigned in *nullo*, &c. *cur. adv. vult.* *Ra.* 288. *Sci. fa.* awarded. Return *nil habet.* Defendant does not appear, *cur. adv. vult.* *Co. Ent.* 268. Further day by assent of parties to assign errors, *Ra.* 307. Imparance to assign errors, *Ash.* 297.

ON FALSE JUDGMENT. (See TIDN'S PRACTICE, third Part, p. 943.)

Error in plaint levied in county court in trespass on case, *Ro. Ent.* 313. On *accedas ad curiam*, 317. Ancient demesne, 315. In county court in trespass, *Ibid.* In *replevin*, *Ibid.* In the court of the manor in writ of right *parvo*, &c. 319. On *accedas ad curiam* of a dean of free chapter, *Ibid.* 321. That when plaintiff in assignment replication ought to have alledged sufficient matter by which it might appear to the justices that plaintiff had sufficient cause of action, yet no such alledged, &c. *Law. Err.* 134. That no bill in the record stated in the court of our lord the king of the bench is assigned, or remains of record, 257. *Bro. R.* 371. Error on judgment in county palatine of Lancaster, for that plaintiff after suing out original, and before taking the oath, took to husband lord R. S. *Chf.* 313. Demurrer and judgment for plaintiff in error by default, *Ibid.* That plaint in the inferior court of H. levied, and upon which all proceedings in said court of Chester were had does not contain any apt words to entitle said M. to said debt of fifty-two pounds, without stating in the *debet*, or *detinuit*, or *detinuit*, or whether either *debet* or *detinuit*, *Chf.* 223. That by the record it does not appear in what year the said sessions of Chester was held at C. on the thirteenth of April, that it was held and for that cause bad, and for not stating what time in the reign of the king, or the time of his age or otherwise, *Ibid.* That the writ of *certiorari* on which proceedings were had is returned before justices — at C. but it does not appear that he said J. W. esquire, in the record mentioned was a justice of C. or only a magistrate, and therefore proceedings *coram non iudice*, *Ibid.* That it does not appear that the parties, either plaintiff or defendant, appeared by themselves or attorney at the return of the writ of *certiorari*, nor had a day in court at C. but said N. counted against N. and E. without any appearance, so there was a discontinuance, *Ibid.* And in this that by the count it appears that cause of action accrued on a writing obligatory, and in the *alias dictus* it is omitted and action not rightly founded, *Chf.* 323. That the declaration in other parts is not sufficient to maintain an action in counting on a bond bearing date the eleventh of May, Jac. 2. *nunc. angl.* 3. and not stating the time of the reign or age, *Ibid.* That it appears there was a demurrer before the chief justice of Chester, in which case it should be *cur. adv. vult.* but justices proceeded on the return. *Certiorari.* Declaration, demurrer, joinder, and judgment on the same day, *Ibid.* That no original filed of record in Lancaster, *Ibid.* 3:4.

Error assigned in taking conuſance of a fine in the county palatine of Cheſter, *Chf.* 330.

That it appears an infant is admitted to ſue by guardian where ſaid infant was tenant in the plea aforeſaid; 2d, that no appearance is entered on record aforeſaid for the ſaid T. H. by his guardian; 3d, not of record whether T. H. ever appeared or vouched to warranty ſaid T. B. but that appearance and the voucher to warranty altogether uncertain and inſufficient, 2. *San.* 91.

Diminution alledged in the record in the original and offered himſelf thereon, and award of judgment of the whole judgment and proceedings, viz. writs of *capias*, alias *capias pueris*, *capias exigent*, and proclamation. Appearance, continuance, and warrants of attorney, *Re. Dec.* 328. Diminution in not certifying writ of *en. ad rep.* againſt defendant, *Chf.* 325. Writ of inquiry of damages. *Ibid.* On *venire facias* and *habeas corpus jurata*, *Re. Dic.* 371. *Chf.* 328. Entry on diminution of record alledged, *Han.* 134.

Error assigned for writ of *venire facias* was teſted out of term, *Chf.* 329. That writ of *venire facias* on which iſſue was tried was returned between defendant and one T. L. and not Robert lord L. therefore plaintiff not a party to the record, *Ibid.*

Error assigned as well in the rendition as in the award of judgment, 2. *San.* 214. 223. 342. Errors assigned before the juſtices to examine errors in the huiſings of London, "that it appears to the court that the verdict ought to be quaſhed as bad, &c. new trial had, and new return of beaſles, and new precept of *diſtringas jur.* &c." whence the verdict was good, 2. *San.* 247. Error assigned on a judgment in *premanure*, for "that *venire* is awarded by precept where it ſhould be *is commanded* and reverſed, *Ibid.* 392. That judgment is given for plaintiff to recover damages in the court at Briſtol of dent and damages where plaintiff does not pray damages in his replication, *Ibid.* 96. In *replevin* that avowants pray writ of return of cattle, and afterwards had a writ to enquire of the value of the cattle, 2. *San.* 287.

Error assigned, "that it is alledged that jury ſay *but not on oath*," and judgment reverſed, *Ro. Ent.* 315. Assignment of errors by defendant on *replevin* in county court, *Ibid.* 317. On judgment in debt in court baron, 2. *Bro.* 129. In *caſe* in the hundred court where defendant makes default and imparlance to aſſign errors want of, *Ibid.* In *caſe in demidio hundredi*, and judgment on the verdict, *Ro. Ent.* 317.

False judgment reverſed, for "that it does not appear by the record that firſt court was held, and that ſaid W. by his declaration complains that he was injured, and to have damages to twenty-nine pounds, where the court could not hold plea of forty ſhillings, 2. *T. Jud.* 137. That the court was held before the ſteward, where it ought to be before the ſuitors and ſheriff, and ſo *coram non judice*, *Ibid.* For default of warrant of attorney for ſaid W. or ſaid J. in ſaid plaint, *Ibid.* That it does not appear of record before what judge or judges ſaid court on twenty-fixth J. in the year of the reign of our lord the king twenty-nine was held, nor that the ſaid G. or the ſaid W. appeared at the ſame court, nor that any day of appearance for them, or either of them, was given by the ſaid court, *Ibid.* 139. That it appears by the record that ſaid cattle were taken on the fifteenth J. in the year, &c. fifteen, and that the plaint was levied at ſaid county court of ſaid ſheriff nineteenth December, *anno* 14. and ſo plaint levied before taking the cattle, *Ibid.* That it does not appear that any court was held before any bailiff of the manor or any ſuitors of the court baron there, *Ibid.* That plaint was diſcontinued, for that ſaid T. D. and E. did not appear at the ſame court *parvum* of our lady the queen at M. held the ſixth day of M. *anno* 37. aforeſaid, *Ibid.* That it appears that the ſaid T. and E. and J. W. and A. appeared in the ſame court by attorney, and no warranty of attorney on record, *Ibid.* That it appears on record that precept was directed to R. R. one of the ſuitors of the manor or lordſhip aforeſaid, and to the miniſter of the court aforeſaid, that the tenements aforeſaid, with

- with the appurtenances, became re-seised where the same R. R. was a suitor and domesman (*judge*) of the same court, 140. That it appears of record that the said R. V. of W. and P. V. two of said tenants, pleaded that they were not tenants on the day of suing forth the writ of assize nor ever afterwards but in reversion after the death of A. *Ibid. Ro. Ent. Tit. Error.*
- Plea in *nullo est erratum*, *Cl. Aff.* 213. 84. *Law. Err.* 127. 136. *Clif.* 315. 317. 323. 326. 1. *San.* 73. 96. 180. 2. *San.* 37. 92. 223. 248. *Law. Ent.* 97. *Tho.* 458. *Han.* 97. 2. *Ven.* 291. 2. *Bro.* 122. *Re. Dec.* 390. *Bro. Met.* 264. 272. 2. *Mo. Int.* 258. In false judgment, *Ibid.* 261. 265. And *cur. adv. vult.* *Ro.* 288. *Co. Ent.* 154. 239. 246. 248. 250. *Fin.* 121. Release of errors, *Asb.* 299. *Puis darrein continuance*, 1. *Co.* 13. 21. *E.* 4. 43.
- Errors assigned by attorney general in entry of lands, whereof one attained was seised in tail. Plea that the king made to defendant letters patent of restitution of lands. Demurrer thereto. Judgment against the king, *Co. Ent.* 243.
- Plea in bar that *infancy* cannot be assigned for error, for that a jury gave their *verdict* to the contrary, *Re. Dec.* 305. Replication that he can. Demurrer. Joinder. *Cur. adv. vult.* 305.
- Plea protesting that errors assigned are not sufficient for plea, that the original writ was in due time delivered and entered, and traverse that entry and purchase was after judgment, *Ibid.* 354.
- Error that plaintiff in the first action died before verdict, defendant says that he died after. Replication *before*, and traverses *after*. Demurrer. Joinder, *Law. Err.* 56. *Bro. R.* 374.
- Plea of release of errors, *Re. Dec.* 309. *Law. Err.* 259. Replication *non est factum* and issue, *Bro. R.* 372.
- Plea to error by *prochein ami* for an idiot, that he was of sound mind and understanding till a certain day, and traverses that he was an idiot from the time of his nativity, and issue on the traverse, 2. *San.* 233.
- Judgment by default against three, that two of them were within age, *Dy.* 104.
- On error in *fine* that it does not appear that two or more commissioners took the caption. *Certiorari* to justices of Chester, and return. And one of plaintiffs dead, *puis darrein continuance*. Confession by defendant to be true, and judgment that writ be quashed, *Clif.* 331. And leave given to purchase a better writ on the suggestion of next akin.
- Judgment when another judgment is reversed in a writ of error, *Tho.* 450. 459. When affirmed, *Ibid.* 458. For default of plaintiff in error after issue joined, 2. *San.* 334. In error on a verdict in waste in court of hustings in London, for that it appears to the justices that first verdict is in nothing erroneous, and no new trial ought to be had, nor regard to the said twelve pence for costs and charges, for that costs and charges in this case are not allowed by the custom, and that the second verdict and judgment thereon be reversed, afterwards errors assigned in parliament on reversing first verdict and judgment affirmed, 2. *San.* 250. In *replevin* judgment affirmed for the avowants, 288. 317.
- Judgment affirmed in parliament on judgment reversed by court to examine errors in the hustings in London, 2. *San.* 251. On writ of error by defendants default, 1. *Bro.* 217.
- On judgment reversed in the exchequer chamber for error, 1. *Bro.* 214. *Fine* reversed, for that the *desforçant* at the time of the levying was within age, 2. *Bro.* 121.
- Several continuances, and several judgments for plaintiff on errors assigned, *Re. Dec.* 366.
- Judgment affirmed in exchequer, and record remitted before B. R. *Ibid.* 392. *Bro. Met.* 264. 272. 274. In parliament, 2. *San.* 225. *first part*, *Ibid.* 180. *Non prof.* and judgment on writ of error in exchequer on a judgment obtained in B. R. in case for words, *Bro. Met.* 274. 281. That the former judgment be reversed

- as to three defendants, and restitution, &c. That the plaintiff take nothing by his writ, 2. *Mo. lrt.* 271. On *false judgment*, judgment vacated and restitution awarded, and the errors specially set forth: first, that no appearance is recorded; second, no entry of verdict; third, not stated for *whom* judgment given, *Ibid.* 266. That a fine be reversed, and *certiorari* to *custos breviarum* that the fine be cancelled, *Law. Err.* 194.
- Judgment affirmed in the council chamber (upon an action for words brought in exchequer) and reversed in parliament, *Law. Err.* 323.
- Judgment by default against plaintiff in error (upon defendants demurrer) in the chancery of the county palatine of Lancaster upon error brought upon a judgment there before justices *Chf.* 311.
- Judgment affirmed where plaintiff in error alleges by *prochein ami* idiot from nativity. Plea that he was of a sound mind on a certain day and *iss.e.* plaintiff in error *non prof.* and judgment affirmed, 2. *San.* 232. Affirmed on verdict, and judgment in case in Durham, *Ibid.* 400. In debt there, 1. *San.* 73. On error brought to reverse a judgment in a *common recovery* in county palatine of Lancaster, 2. *San.* 194. On error to reverse a judgment given in great sessions of Wales, *Ibid.* 38. On a writ *de quod ei de forciat*, *Ibid.* In debt on judgment in the court of Bristol, 1. *San.* 97. In *ejectionment*, judgment affirmed in the exchequer, and the record sent back, *Ibid.* 180. On judgment in C. B. against executor, (when assets had come to hands) and assigns, for that the judgment is that the executor shall be *in mercy*, 2. *San.* 224. And affirmed also in parliament on general errors assigned, *Ibid.* 225. Judgment reversed in *premunere*, 393.
- Judgment reversed in debt by executor, and plaintiff confesses *restitution*, 2. *San.* 105. *Non prof.* in error after *sci. fa.* returned, *Han.* 131, 136. In error and damages *per formam statuti*, 128. On *sci. fa.* and costs allowed for *non prof.* in error, *Ibid.* 158. On writ of attainder of verdict in *ejectionment*, *Ibid.* 164.
- Default in writ of error and judgment, *Tho.* 459. On false judgment, a judgment in an action on the case in the county court reversed, and precept of restitution awarded, 2. *T. Jud.* 137. *Mo. lnt.* 261. Where defendant does not appear, 2. *T. Jud.* 137. Where one bailiff levied the money and paid them to defendant, *Ibid.* 138.
- Judgment in debt reversed and suitors amerced, and plaintiff prays and has writ directed to defendant to restore the money, and he comes and says that he delivered the writ to defendant who does not pay him the money, therefore another awarded under a penalty, &c. *Ibid.* Judgment in a writ of *right close* affirmed, 2. *Mo. lnt.* 266. 2. *T. Jud.* 139. Reversed and writ of restitution and enquiry of issues and profits awarded, *Ibid.* Where suitors are amerced for false judgment and writ of restitution and inquiry of issues returned, *Ibid.* 140. Judgment that the account is just on *accedas ad curiam* of dean of chapter, *Ro. lnt.* 321.
- Demise of the king before assignment of errors and award of re-summons thereon, *Ra.* 307.
- Plea of new writ of error, one of plaintiffs, an executor, makes default; summons to sue awarded, *Ibid.* 308. One plaintiff makes default, award of summons to sue, and default thereon. *Sci. fa.* award to the executor of an executor to hear errors, *Ibid.*
- Error by two executors after award of *sci. fa.* One died. Writ quashed. Another writ pleaded. Award of *sci. fa.* Sheriffs return *nol habet*. Appearance, and in *nullo*, *Sc. cur. adv. vult.* *Co. Ent.* 271. *Jud.* 269.
- Pluries sci. fa.* return *sci. fa.* Appearance in *nullo*, *Sc. cur. adv. vult.* Plea by defendant of *discontinuance* of writ of error, that plaintiff comes by attorney, when he was admitted to prosecute by guardian. New writ pleaded. *Sci. fa.* awarded. *Sci. fa.* returned, and defendant makes default, *Co. Ent.* 282.
- Plea to abate or quash the writ, that plaintiff confesses and has leave to obtain a better writ. New writ pleaded, *Ra.* 107. Where writ was not properly obtained. New

New writ pleaded, and *scire facias* thereon, *Jud.* 270. *Ass.* 292. Attorney general prays leave to obtain a better writ, for that first writ is abateable, and new writ pleaded, *Co. Ent.* 241.

Diminut on alledged in the continuance of the *venire facias* and award of *certiorari*, *Ra.* 290. After imparlance in defendant's title between *inter hæc verba* and *inter hæc verba*, and in other words in the award of writ in assize and award of *certiorari* to justices at assize, *Co. Ent.* 299. Award of *certiorari* to chief justice, and *custos breviarum* of warrant of attorney. *Custos non misit*, &c. Chief justice certifies warrant. Award of *scire facias*. Plaintiff assigns other errors. Judgment affirmed, *Ra.* 289. Award of *certiorari* to *custos*, &c. of *exigi facias*, and certificate thereon, *Co. Ent.* 154.

Diminution in writ of *seisin*, and return. *Certiorari* to *custos*, &c. and return, *Co. Ent.* 242.

Errors assigned. Want of original in writ of entry. Diminution in writ of *seisin* and return. *Certiorari* to *custos*, &c. and return, and afterwards award of *certiorari* to *custo*, &c. to certify original, and return. Imparlance and plea, *Co.* 242. Want of original in *debt*.

*Certiorari* to *custos*, &c. certifies no writ. *Scire facias* to defendant, who appears, and alledges diminution in original, and continuance thereon. *Certiorari* to chief justice, and *custos*, &c. They certify original and entry of the *capias*. *Alias capias*, *pluribus capias*, and imparlance, *Co.* 247.

After errors assigned, and in *nullo*, &c. pleaded, *certiorari* to *custos*, &c. to certify original in *formeden*. Certificate thereon, *Co.* 254.

Errors assigned in *venire facias*. *Habeas corpus juratorum*, and in taking the verdict *certiorari* thereof to *custos*, &c. who certifies the same. Defendant says that verdict was rightly taken, and prays *certiorari* of indorsement of writ of *habeas corpus juratorum*. Return thereof. Defendant prays to amend according to the statute in a word, viz. *librat. for librarum*, and thereon to the residue pleads in *nullo*, &c. *cur. adv. vult.* and judgment affirmed, *Co.* 253. Judgment affirmed on amendment of matter assigned for error, *Jud.* 306. Divers errors assigned. *Certiorari* to chief justice, and *custos in hæc verba* return by chief justice. *Scire facias* to hear errors. *Scire faci in nullo*, &c. *cur. adv. vult. cur. ulterius adv. vult.* *Certiorari*, and thereon *diminution* alledged in the continuance. *Certiorari de novo* to chief justice, and *custos*, &c. return *cur. adv. vult.* One plaintiff a bishop is translated archbishop. Discontinuance of writ, and new writ of error pleaded. Errors assigned, *de novo*, and *certiorari* to chief justice, and *custos*, &c. *non miserunt breviam*. Death of chief justice, *Certiorari de novo* to senior justice, and *custos*. Return, and *scire facias* to hear errors, *Ibid.* 265.

Error in judgment in C. B. against L. F. knight, after record sent, and before assignment of error. L. F. esquire, administrator, prays leave to purchase a better writ, and hath it. Another writ pleaded of *record coram nobis*. Errors assigned. Want of warrant of attorney. Two writs of *certiorari* awarded. One warrant is certified. In *nullo*, &c. pleaded by two executors. Plaintiff alledges *misprision* in writ of error, for that judgment was in the time of the late king. New writ pleaded and *scire facias*. Plea by two executors as before, and one dies. New writ of error, and plea as before. Judgment reversed, *Ass.* 290.

Errors assigned in trespass and assault. 1st, That judgment is entered *capitur* after a general pardon. 2d, No admission on record to sue by next friends in the name of either of the prothonotaries. Replication, that by the practice of the court judgments in trespass after a general pardon are entered as well *nihil* as to the *fine*, because he is pardoned, as that defendant *capitur* in one line, and in the margin *pardonatur*. And that the filazers enter admission to sue by next friend before the declarations. *Certiorari* to chief justice as well of the record of admission as the practice of the court in that respect. Chief justice certifies

record of admission, and the first point in practice, but does not answer to the other. *Certiorari de novo*, and the other point of practice is certified, *Up*. 39. Errors assigned, and *scire facias*, *non misit brevium*, appearance, and alledges diminution in the return of the *postea*, *Her*. 315. Chief justice *non misit certiorari* of diminution, and errors alledged as before. Imparlance, *Jud*. 271. Entry, that the record of the inferior court is not the same sent into court, *Vet*. *Int*. 17. Mittimus entered on record, 34. *H*. 6. 52. Plea, that record was sent into B. R. by writ of error, and remains not reversed, *Ra*. 41. *Co*. *Ent*. 8. 17. 35. 127. 146. 216. 509. 516. 611. 1. *Co*. 83. In *assize*, when record was sent into C. B. by *certiorari*, *Co*. *Ent*. 90. or 92.

## WRITS AND PROCEEDINGS, &amp;c.

*Alias* writ of error, *Reg*. 2. 6. or 116. *Pluries*, 217, 286. Writ of *procedendo* to examine error, where plaintiff *non prof*. 132. Writ on certificate of the *residue* of the record in assize on diminution alledged, *F. N. Br*. 25. To chief justice to certify *residue* of record in a plea of land where *part* was first certified, *Ibid*. 116. *Alias* writ of record sent of judgment in the inferior court where the *now* mayor returned that no judgment was had by predecessor, and *amerced* for his false return, *Thef*. 68. Continuances in error, *Bro*. *Met*. 262. 271. 279. 2. *Mo*. *Int*. 258. &c. *Clif*. 324. In false judgment, *Ibid*. 347. Several continuances, *Re*. *Dec*. 366. 2. *San*. 248. *Ibid*. *second p* rt, 37. Writ to supersede execution on finding bail, *Reg*. 129. To discharge a prisoner on depositing damages awarded, and to find pledges to prosecute writ of error with effect, *Ibid*. 129. That the goods of the person who prosecutes error may not be removed out of the city to make void execution of the judgment if affirmed, *Reg*. 131. Writ to justices at assizes to confess or deny bill of exception by them made on taking the assize where error is pleaded, *Ra*. 293. Mittimus of the *foot* of the *fine* levied in borough court by charter when fine reversed by writ of error, *Ra*. 296. *Scire facias* bail on error. *Wiccomes non misit breve*. Appearance. Plaintiff as before alledges error. Imparlance for defendant, who makes default, *cur. ad vult*. *Re*. *Dec*. 369. Plaintiff in error comes into court and surrenders to the marshal, and immediately alledged error, *Ibid*. 373. *Certiorari* to *custos brevium*. Return. *Scire facias* to defendant. Bail for plaintiff. Errors alledged, and plaintiff on judgment *wiccomes non misit breve*. Appearance. Alledges error as before. Imparlance, and defendant makes default, *Re*. *Dec*. 374. Errors assigned. *Scire facias* to hear errors. Appearance. Errors alledged by plaintiff before assigned. Plea, *in nullo*, &c. *Cur. adv. vult*. *Han*. 97. 1. *Bro*. 123. *Mo*. *Int*. 282. 1. *San*. 73. 96. 2. *San*. 317. 342. *Bro*. *Met*. 263. 272. 2. *San*. 317. 342. *Cl*. *Aff*. 111. *Law*. *Err*. 134. 257. And judgment affirmed, *Clif*. 313. 322. 223. And afterwards judgment affirmed in parliament, and record remitted. Error assigned, want of original in debt. *Scire facias* awarded to defendant. Appears, and pleads that on a certain day original was sued out against plaintiff. *Certiorari* awarded to *custos brevium*, who certifies plaintiff's writ. Plaintiff as before alledges errors. Defendant after imparlance pleads *in nullo*, &c. 2. *Bro*. 121. Errors assigned. *Scire facias* to hear errors awarded, *Ibid*. 123. Appearance, and plea *in nullo*, &c. 2. *Vet*. 291. Errors assigned. *Scire facias* awarded to bail to prosecute error. *Non misit breve*. *Alias scire facias*. Appearance. Errors as before. Plea, *in nullo*, &c. *Cur. adv. vult*. 2. *Bro*. 122.

Judgment in C. B. in Ireland revoked by writ of error in Ireland, and that judgment revoked by error in England, and afterwards another writ of error in England to revoke error in the first judgment in C. B. in Ireland, *Re. Dec.* 358. *Certiorari* directed to *custos breviarum* in C. B. to certify record of a fine, 2. *Bro.* 117. Answer thereto, with return of writ and record, *Ibid.* 118. To certify writ of privilege, *Clif.* 318.

Precept (it is commanded) to chief justice in Ireland, that by the king's writ he cause to be commanded to the sheriff that *scire facias* defendant in error to be in England, &c. *Re. Dec.* 360.

*Warrant of attorney* on a writ of error, 1. *Bro.* 217. 327. *Re. Dec.* 391. *Bro. Met.* 264. Error assigned. *Certiorari* to justices. *Scire facias*. Return, and *certiorari* to *custos breviarum*. To return, *certiorari*, *Re. Dec.* 351.

*Certiorari* to chancellor of county palatine of Lancaster, that it be commanded to the justices there to search for original, &c. *Clif.* 324. To *custos breviarum* of C. B. *Re. Dec.* 284. To certify *venire facias*, *habeas corpus*, and *distringas*. *Ibid.* 367. 371. And return. And writ of enquiry of damages, &c. *Clif.* 253. 29. As well to chief justice as to *custos breviarum*, &c. *Re. Dec.* 302. 324. *Law. Err.* 257. Return, *Ibid.* 252. *Bro. R.* 371. And *scire facias* to sheriff, and return, *Ibid.*

Errors assigned. *Scire facias* against bail in error. Sheriff returns *nihil*. Appearance, and errors alledged as before. Plea, demurrer, and replication. *Cur. adv. vult.* Adjournment of the term. Release of errors pleaded. Replication, *non est factum venire facias*. Verdict for defendant, and judgment affirmed, *Re. Dec.* 303. Errors assigned. *Scire facias*. One *nihil*. Two *nibils* by default made. Plaintiff alledges errors as before. *Cur. adv. vult. Ibid.* 243.

Errors assigned. *Scire facias*. Appearance. *Viccomes non misit breve*. Errors assigned, *de novo*. Plea, *in nullo*, &c. *cur. adv. vult.* Appearance. Second continuance. Demise of the queen before the day. Several continuances, Plaintiffs in error pray their writ may be quashed and another writ. Writ quashed, and leave to sue out new writ. Second writ of error. Errors assigned as before. *Scire facias*. Return. Appearance, and plea. Release of errors from W. A. *Puis darrein continuance*, and that W. R. did not die before trial, *modo et formâ*, and issue thereon. Plea by W. A. *non est factum* to the release, and issue thereon. *Venire*. Return. *Distringas. Nisi prius*. Return, and *posse. Tales*. Verdict for plaintiff, that W. R. died *modo et formâ*. Verdict for defendant, to *non est factum, cur. adv. vult.* Plea in abatement to the writ of error. Confession by plaintiff, and writ quashed. Leave granted to sue out third writ of error, and same errors assigned as before. *Scire facias*. Return. Appearance. Errors assigned as before. Plea by defendant. *Release* by W. A. as before, and that W. R. died not before trial. Plea by W. A. *non est factum*, and issue. *Venire*. Return. *Distringas. Jurata. Nisi prius. Tales*. Verdict for plaintiff, that W. R. died before the trial. Verdict for defendant as to *non est factum*. Judgment, that the former judgment be reversed as to three defendants, and that W. A. take nothing by the writ, 2. *Mo. Int.* 257. to 272.

*Scire facias* in execution after writ of error brought, and defendants plead that execution is not yet executed, and *scire facias* to defendants to shew cause, *quare non*, &c. *Nihil* returned. *Alias scire facias* and *nihil*. Judgment of *non prof.* of the writ of error. Writ of possession awarded. *Scire facias* for damages. Writ of enquiry. Enquiry of mesne profits and waste. Return, judgment for mesne profits and waste. Costs according to the statute. And execution awarded, 2. *Mo. Int.* 255.

Errors assigned in the rendition of the judgment, and also of the execution on the *scire facias* thereon. *Scire facias* to hear the record. *Non misit breve*. Appearance. Errors as before. Plea *in nullo*, &c. *cur. adv. vult.* Judgment af-

- firm'd in B. R. Errors assigned in parliament. *Plea in nullo, &c. cur. adv. vult.* Judgment affirmed, 2. *San.* 222.
- Errors assigned by an infant on a *recovery*. Precept to the chancellor of the county palatine of Lancaster, that he command the sheriff *seire facias* defendant, and return thereon. Return to *seire facias* by sheriff. Errors as before. *Plea in nullo, &c. cur. adv. vult.* Plaintiff prays another *seire facias* to the chancellor to summon terre-tenants, &c. Return by chancellor, and also of *seire facias* by sheriffs. Appearance by some tenants, and others do not come. Errors as before. *Cur. adv. vult.* and judgment affirmed, 2. *San.* 92. *Thef. Bre.* 105. *Seire facias.* Appearance. Errors as before, *in nullo, &c. Ibid.*
- Errors assigned on verdict in Lancaster. Appearance, *in nullo, &c. Dies datus* to hear errors. Appearance, *cur. ulterius adv. vult.* Several continuances. Judgment affirmed. Writ of error thereon in parliament, and there affirmed, 2. *San.* 247. In replevin, *seire facias non misit breve.* *Alias seire facias.* Appearance gratis, and *plea in nullo, &c.* immediately. *Cur. adv. vult.* and judgment affirmed, 2. *San.* 287
- Error in fact assigned in B. R. on judgment in C. B. Appearance without any *seire facias*, and pleads issuable. Plaintiff at  *nisi prius* makes default, and judgment for defendant, 2. *San.* 332. Error assigned in B. R. Appearance without *seire facias*, and judgment affirmed, *Ibid.* 399. Defendant comes in the same term and assigns errors immediately, and *certiorari* to *custos brevium*, and no return. *Seire facias* awarded. Appearance. Errors as before. *In nullo &c. cur. adv. vult.* Judgment reversed, and plaintiff confesses restitution on that, *Ibid.* 105.
- In error before justices to examine errors from the hushings in London, there were two verdicts; one revoked, and judgment on the other, 2. *San.* 247. In B. R. on a judgment in *premunire*, defendant comes in by *h. b. corpus*, and reversed, *Ibid.* 392. In B. R. *seire facias audiendum errores* awarded to the sheriff of Merioneth, in Wales, and no return. Appearance, and judgment affirmed in disseisin, and after writ of seisin awarded, and writ of enquiry of damages on occasion of the disseisin, and judgment on that, *Ibid.* 36. In B. R. *seire facias* to hear errors awarded, and no return. Errors assigned, and defendant joins, 1. *San.* 73.
- Error by the heir in tail to reverse a common recovery in the county palatine of Lancaster, and assignment of infancy by the party suffering, &c. *Seire facias* to defendant. Sheriff returns *mortuus*, and *alias seire facias* against the heir, who appears, and pleads full age, and issue, *Thef. Bre.* 106.
- Error assigned, that there was no writ of entry. *Certiorari* awarded to *custos brevium*. Return, no writ after a *seire facias* to hear errors is awarded to defendant and the terre-tenants, *Thef. Bre.* 109.
- Entry on a writ of error where plaintiff in the same writ is in execution, who brings into court the condemnation money remaining in the hands of the chief clerk, *Han.* 134. When chief justice of C. B. *non misit breve*, and defendant prays a day, *Ibid.* On *seire facias*, *Ibid.* In error on false judgment. Errors assigned, *in nullo, &c.* Continuance by justices, and judgment affirmed, 2. *Mo. Inq.* 265.
- Writ of error on fine levied in Chester, *Clif.* 337. On judgment, and outlawry after judgment, *Ibid.* In prohibition, *Ibid.* Where chief justice of C. B. is changed, *Ibid.* As well in rendition of judgment as in award of execution on *seire facias*, *Law. Err.* 19. *Bro. R.* 370. 2. *San.* 214. 342. Return of writ of false judgment in an inferior court, *Clif.* 339. Entry of writ of false judgment, *Ibid.* 342. And *recordari facias* to justices of C. B. and *procedendo* thereon, *Ibid.* 345.

Error in false judgment assigned, defendant makes default, *cur. adv. vult. Clif.* 347. Restitution awarded, *2. T. Jud.* 137. Plaintiff says he delivered the writ, and defendant did not pay, and *alias* awarded under a penalty, *Ibid.* 138. Writ of restitution, and enquiry of issues and profits awarded, *Ibid.* 139. And enquiry of issues returned, *Ibid.* 140.

*Habere facias possessionem* awarded upon affirmance of a judgment in error of false judgment, *2. T. Jud.* 267.

Errors assigned, and one writ to chief justice, and the other to *custos brevium*, *Lanc. Err.* 58.

Error on fine levied. Plaintiff says cognizee is dead, and *scire facias* against the heir to hear errors. Return. Errors as before. Diminution alledged in the proclamation, and *certiorari* to chirographer. Judgment of reversal, and *certiorari* to *custos brevium*, that the fine be cancelled, *Lanc. Err.* 193. One defendant dies, *purs darrein continuance*, *scire facias* to heir and terre-tenant, *Clif.* 324.

Error assigned in county palatine of Lancaster. Demurrer. Judgment for plaintiff in error by default, *Clif.* 313.

*Certiorari* to justices of Chester to certify the caption of a fine on *dedimus potestatem*, and return *cur. adv. vult. Clif.* 330. To the chancellor of the county palatine of Lancaster to certify original, and warrant of attorney, &c. in ejectment, *Ibid.* 335. Precept to the chancellor of the county palatine of Lancaster, that he commanded the sheriff, &c. to a *scire facias*, *Ibid.* 332.

*Egit* on a judgment at Chester removed into B. R. by writ of error, and there affirmed, *Clif.* 310.

*Certiorari* to chief justice of C. B. whether there is a record of forejudger of an attorney, *Clif.* 336. To *custos brevium*, whether there be an original writ, and return, *Ibid.*

*Fieri facias* for damages for the delay and debt, and prior damages on a debt recovered in Chester, and judgment affirmed in B. R. *Clif.* 310. In trespass on judgment affirmed in B. R. *Ibid.* 308.

*Capias ad satisfaciendum* out of B. R. on recovery in the hundred court. Judgment affirmed at Chester, and afterwards in B. R. at Westminster, *Clif.* 308.

*Scire facias* after judgment affirmed against administrator, *Clif.* 309.

*Fieri facias* in case after a writ of error, *Clif.* 309.

### III. JUDGMENTS. (See PROCEEDINGS THROUGHOUT, *ante.*)

Judgment that first judgment be affirmed, *Ra.* 296. *Co. Ent.* 228. 250. 264. 292. *Asb.* 299. In an inferior court with costs, *Co. Ent.* 292. In *audita querela* by terre-tenant against terre-tenant. Judgment affirmed, and writ of seisin of lands extended, and restitution of issues thereon awarded. Return. Writ of enquiry *de novo* awarded for insufficiency of the return, *Ibid.* 239.

Judgment affirmed against executor, and judgment on *scire facias de bonis propriis* reversed, *Co. Ent.* 272.

Judgment reversed, *Co. Ent.* 231. 296. 1. *Co.* 40. In a plea of land, *Ra.* 308. For plaintiff on demurrer to errors assigned, *Jud.* 341. *Asb.* 299. By reason of minority of the tenant, *Jud.* 293. Judgment to quash a writ in *formedon* after special verdict reversed. *Cur. adv. vult.* on the special verdict. Judgment for demandant, *Co. Ent.* 255.



# ACTIONS MIXED.

## EJECTMENT.

(PROCEEDINGS IN.)

Trinity Term, 29. Geo. III.

DOE } SUSSEX, to wit. John Doe complains of Richard Roe, being, &c.; for that whereas one Joseph Roe. } M. heretofore, to wit. on, &c. at, &c. had demised to the said John Doe one messuage, one yard, one backside, one orchard, one garden, &c. &c. situate in the parish and county afore said, to have and to hold the said tenements, with the appurtenances, unto the said John Doe and his assigns, from the seventeenth day, &c. from thence next ensuing, and fully to be complete and ended: And also for that whereas one Elizabeth Harvey heretofore, to wit, on the said eighteenth day of, &c. at the parish, &c. had demised to the said John Doe one other messuage, one other yard, &c. &c. situate in the parish afore said, in the county afore said, to have and to hold the said tenements last-mentioned, with the appurtenances, to the said John Doe and his heirs and assigns, from the seventeenth day of, &c. &c. from thence next ensuing, and fully to be complete and ended: And also for that whereas one, &c. heretofore, to wit, on the said eighteenth day of May, &c. at the parish, &c. had demised unto the said John Doe one other messuage, and one other yard, &c. &c. situate in the parish afore said, in the county afore said, to have and to hold the said last-mentioned tenements, with the appurtenances, to the said John Doe and his assigns, from the day, &c. from thence next ensuing, and fully to be complete and ended; by virtue of which said several demises the said John Doe entered into the several tenements and appurtenances so to him respectively demised as afore said, and was thereof possessed, until the said Richard Roe afterwards, and during the continuance of the said several terms and interest of the said John Doe in the said several tenements, with the appurtenances, to wit, on the eighteenth day, &c. entered with force and arms, &c. upon the said several tenements, with the appurtenances, and in and upon the possession of the said John Doe, and ejected him from his said several premises; and other injuries to the said John Doe then and there did, against the peace of our lord the now king, and to the damage of the said John Doe of ten pounds, and therefore he brings suit, &c.

Declaration in  
ejectment in B.  
R. by bill, on  
three demises,  
1st Count, on  
the demise of  
the trustee.

2d Count, on  
demise of the  
dowager,

3d Count, or  
demise of the  
minor.

Mr.

## EJECTMENT.—NOTICE.

MR. IRELAND,

Notice in chief.

I am informed that you are in possession of or claim title to the premises in this declaration of ejectment mentioned, or some part thereof, and I, being sued in the action as a casual ejector, and having no claim or title to the same premises, do advise you to appear next Michaelmas term in his majesty's court of king's bench at W. B. for an attorney of that court, and then and there by rule of the same court to cause yourself to be made defendant in my stead, otherwise I shall suffer judgment to go against me, and you will be turned out of possession.

I am your friend,

R. ROE.

Case on the above declaration for opinion, how to lay demises where there is a minor, a trustee, and dowerer. Whether notice to quit is necessary to be given to an under-tenant who holds over after the original tenant has quitted. On whom such notice is to be served where such under-tenant is a bankrupt? Whether such under-tenant would be liable to double

COSENS was lessee of a messuage, backside, and premises, in 11 parishes, &c. for a term of years which expired the 15th of May last; at Lady day 1788, he let the premises to Thomas Ireland, who has ever since occupied them as his undertenant. Ireland is now become a bankrupt, and the landlord wants to let the premises to another person: but Ireland became determined to continue the occupation till he is forced to quit, and the assignees do not care to interfere in the matter. The landlord is trustee for a young man who is a minor, and has power to sell the estate, except the dower of testator's widow, which is Mrs. Harvey, to whom they have paid rent. The lease expiring on the sixteenth day of May last, and no further agreement or rent having been made or paid since, I apprehend no notice is necessary to be given to Cosens or his under-tenant to quit, but that a declaration in ejectment may be delivered immediately. As Cosens is a tenant at sufferance, Cosens is desirous that Ireland should be compelled to quit, and will not enter appearance to the ejectment. J. M. is the name of the trustee of this house; E. H. the widow entitled to dower; Cosens, the tenant; Thomas Ireland; the under-tenant, now a bankrupt, &c.; Crokes and Chalmor, assignees under the commission.—If you think with me that an ejectment might be maintained without notice, please to fill up a declaration with the proper parties and send me, and let me know if the declaration should be delivered to both assignees, and one of them lives at Bristol. The assignee at Bristol sends me word that they shall part the rent to Michaelmas and then leave the premises to the bankrupt. But as the

bankrupt took them at Lady-day, can the assignees discharge themselves at that period? We do not mean to charge double rent of Cosens, and the under-tenant is not liable to it.

OPINION.—I have perused the case on which this action is founded, and am of opinion that in order to prevent any surprise or miscarriage in a more advanced state of the proceedings, on account of the actual vesting of the legal estate in the premises in question it will be prudent to lay as many demises in the declaration as there are parties who have an interest. For this reason I have declared upon the demise of the trustees the minor, and the dowerer; so that whichever of them has the legal estate the plaintiff must succeed.

A copy of the declaration must be served upon the tenant in possession only, whoever he is, and he will be bound under the penalty of three years imprisonment of the premises to give notice thereof forthwith to his landlord, under the statute of 11. Geo. 2 c. 19. s. 12. Now it appears by the case that Ireland is the only tenant in possession, therefore it is not necessary to deliver copies of the declaration either to Cosens or Ireland's assignees. Notice to quit before ejectment brought is only necessary where such notice is to determine the term; but here Cosens's time being expired, and no rent received since, nor any act done to justify the possession of Ireland or Cosens, the continuance in possession of Ireland is in my opinion tortious, and he is liable to be ejected without any previous notice to quit. If any benefit could arise by giving Ireland notice to quit or pay double rent, I should think.

if such was given, and he should continue and hold over, he would be liable to pay at the rate of double the yearly value, equally with Cusens or any other tenant holding over under the like cir-

cumstances, by force of the Statute 4. Geo. 2. c. 28. f. 1. which extends to sub-tenants.

THOMAS BARROW.

Michaelmas Term, 30. Geo. III.

STAFFORDSHIRE, to wit. John Doe, late of, &c. was attached to answer Richard Roe in a plea; wherefore with force and arms, &c. he entered into ten messuages, ten cottages, &c. &c. situate, &c. which Mary Beebee, deceased, in her lifetime demised to the said Richard Roe for a term which is not yet expired, and ejected him from his said farm: And also wherefore with force and arms, &c. the said John Doe entered into one undivided sixth part, the whole into six equal parts to be divided of and in ten other messuages, ten other cottages, &c. &c. situate, &c. which J. B. demised to the said Richard Roe, for a term which is not yet expired, and ejected him from his said farm: And also wherefore with force and arms, &c. the said J. D. entered into one other undivided sixth part, the whole into six equal parts to be divided of and in the said last-mentioned ten messuages, ten cottages, &c. &c. situate, &c. which John James demised to the said Richard Roe, for a term which is not yet expired, and ejected the said Richard Roe from his said last-mentioned farm: And also wherefore with force and arms, &c. the said John Doe entered into one other undivided sixth part the whole into six equal parts to be divided of and in the said last-mentioned ten messuages, &c. &c. in the said parish, &c. which Henry Parks demised to the said Richard Roe, for a term which is not yet expired, and ejected the said Richard Roe from his said last-mentioned farm: And also wherefore the said John Doe with force and arms, &c. entered into one other undivided sixth part. the whole into six equal parts to be divided in the said last-mentioned ten messuages, &c. &c. in the said parish, &c. which Edward Parks demised to the said Richard Roe, for a term which is not yet expired, and ejected the said Richard Roe from his said last-mentioned farm: And also wherefore with force and arms, &c. the said John Doe entered into one other undivided sixth part, the whole into six equal parts to be divided of and in the said last mentioned ten messuages, &c. &c. in the said parishes, &c. which Edward Robinson demised to the said Richard Roe, for a term of years which is not yet expired, and ejected the said Richard Roe from his said last-mentioned farm: And also wherefore with force and arms, &c. the said John Doe entered into one other undivided sixth part, the whole into six equal parts to be divided in the said last-mentioned ten messuages, &c. &c. in the said parish, &c. which Isaac Thompson, deceased, in his lifetime, demised to the said Richard Roe, for a term which is not yet expired, and ejected the said Richard Roe from his said last-mentioned farm: And also wherefore with force and arms, &c. the said John Doe entered into the said last-mentioned undivided sixth part, the whole, &c. of and in the

Declaration in ejectment in B. R. by original on eight demises by tenants in common, and opinion thereon.

2d Count.

2d Count.

4th Count.

5th Count.

6th Count.

7th Count.

8th Count.

the

## EJECTMENT.—DECLARATION (BY

1st Count.

the said last-mentioned ten messuages, &c. &c. Abraham Thompson demised to the said Richard Roe, for a term which is not yet expired, and ejected the said Richard Roe from his said last-mentioned farm, and other wrongs to the said Richard Roe there did, to the great damage of the said Richard Roe, and against the peace of our lord the now king, &c. ; and thereupon the said Richard Roe, by A. B. his attorney, complains, that the said Mary Beebee, heretofore, in her lifetime, to wit, on, &c. at, &c. had demised to the said Richard Roe the tenements first above-mentioned, with the appurtenances, to have and to hold the same to the said Richard Roe and his assigns from, &c. and during and unto the full end and term of twelve years from thence next ensuing, and fully to be complete and ended; by virtue of which said demise the said Richard Roe entered into the said tenements with the appurtenances, and was possessed thereof; and being so possessed thereof, the said John Doe afterwards, to wit, on, &c. with force and arms, &c. entered into the same tenements, with the appurtenances, which the said M. B. hath demised to the said Richard Roe in manner aforesaid, which is not yet expired, and ejected the said Richard Roe out of the said farm: And also for that the said John B. heretofore, to wit, on, &c. at, &c. had demised unto the said Richard Roe the said undivided sixth part, the whole into six equal parts to be divided of and in the said tenements secondly above-mentioned, with the appurtenances, to have and to hold the same last-mentioned demised premises, with the appurtenances, unto the said Richard Roe and his assigns, from, &c. for and during, and unto the full end and term of twelve years from thence next ensuing, and fully to be complete and ended; by virtue of which said demise the said Richard Roe entered upon the said last-mentioned demised premises, with the appurtenances, and was possessed thereof; and the said R. R. being so possessed thereof, he the said John Doe afterwards, to wit, on the said first day of June, in the said year of Our Lord 1788, with force and arms, &c. entered into the said last-mentioned premises, with the appurtenances, which the said John Beebee had demised to the said Richard Roe in manner aforesaid, for the term aforesaid, which is not yet expired, and ejected the said Richard Roe out of his said last-mentioned farm: And also for that the said John James heretofore, to wit, on, &c. at, &c. had demised unto the said Richard Roe the said undivided sixth part, the whole into six equal parts to be divided of and in the said tenements thirdly above-mentioned, with the appurtenances, to have and to hold the same last-mentioned demised premises, with the appurtenances, to the said Richard Roe and his assigns, from the first day of May then last past, for and during, and unto the full end and term of twelve years from thence next ensuing, and fully to be complete and ended; by virtue of which said last-mentioned demise the said Richard Roe entered into the said last-mentioned demised premises, with the appurtenances, and was possessed thereof; and the said Richard Roe being so possessed thereof,

the

2d Count.

the said John Doe afterwards, to wit, on the said, &c. with force and arms, &c. entered into the said last-mentioned demised premises, with the appurtenances, which the said John James had demised to the said Richard Roe in manner aforesaid, for the term aforesaid, which is not yet expired, and ejected the said Richard Roe from his said last-mentioned farm : And also for that the said <sup>4th Count.</sup> Henry Parker heretofore, to wit, on the said, &c. at, &c. had demised to the said Richard Roe the said undivided sixth part, the whole into six equal parts to be divided of and in the said tenements fourthly above-mentioned, with the appurtenances, to have and to hold the said last-mentioned demised premises, with the appurtenances, to the said Richard Roe and his assigns, from, &c. for and during, and unto the full end and term of twelve years from thence next ensuing and fully to be complete and ended ; by virtue of which said last-mentioned demise the said Richard Roe entered into the said last-mentioned demised premises, with the appurtenances, and was possessed thereof ; and the said Richard Roe being so possessed thereof, the said John Doe afterwards, to wit, on the said first day, &c. &c. with force and arms, &c. entered into the said last-mentioned demised premises, with the appurtenances, which the said Henry Parks had demised to the said Richard Roe in manner aforesaid, for the term aforesaid, which is not yet expired, and ejected the said Richard Roe from his said last-mentioned farm : And also for that the said Edward Parks heretofore, to wit, on, &c. &c. had demised, &c. &c. &c. [the same as before] : And also for that the said Edward Robinson heretofore, to wit, on, &c. &c. had demised, &c. &c. &c. [the same as before] : And also for that the said Isaac Thompson, deceased, heretofore in his lifetime, on, &c. had demised to the said Richard Roe the said undivided sixth part, the whole into six equal parts to be divided of and in the said tenements seventhly above-mentioned, with the appurtenances, to have and to hold the said last-mentioned demised premises, with the appurtenances, to the said Richard Roe and his assigns, from the said thirty-first day of May, &c. for and during, and unto the full end and term of twelve years from thence next ensuing and fully to be complete and ended ; by virtue of which said last-mentioned demise the said Richard Roe entered into the said last-mentioned demised premises, with the appurtenances, and was possessed thereof ; and the said Richard Roe being so possessed thereof, the said John Doe afterwards, to wit, on the first day of June, &c. with force and arms, &c. entered into the said last-mentioned demised premises, with the appurtenances, which the said Isaac Thompson, deceased, in his lifetime, had awarded for the term aforesaid, which is not yet expired, and ejected the said Richard Roe out of his said last-mentioned farm : And also for that the said Abraham Thompson heretofore, to wit, on the <sup>8th Count,</sup> day of, &c. &c. had demised to the said Richard Roe the said last-mentioned undivided sixth part, <sup>two days after</sup> the whole into six equal parts to be divided of and in the said <sup>the decease of</sup> tenements eighthly above-mentioned, with the appurtenances, to <sup>Isaac Thompson</sup> have <sup>son.</sup>

## EJECTMENT.—DECLARATION.

The day following the death.

The day first mentioned in this Count.

have and to hold the said last-mentioned demised premises, with the appurtenances, to the said Richard Roe and his assigns from the day of, &c. &c. for and during and unto the full end and term of twelve years from thence next ensuing, and fully to be complete and ended; by virtue of which said last-mentioned demise the said Richard Roe entered into the said last-mentioned demised premises, with the appurtenances, and was possessed thereof until the said John Doe afterwards, to wit, on the day of, &c. with force and arms, &c. entered into the said last-mentioned demised premises, with the appurtenances, which the said Abraham Thompson had demised unto the said Richard Roe in manner afore said, for the term afore said, which is not yet expired, and ejected the said Richard Roe out of his said last-mentioned farm, and other wrongs to the said Richard Roe then and there did, to the great damage of the said Richard Roe, and against the peace of our lord the now king; wherefore the said Richard Roe saith he is injured, and hath sustained damage to the value of ten pounds, and therefore he brings his suit, &c.

T. BARROW.

pinion to the  
ove declara-  
on.

I have perused the state of the facts in this case, and have re-drawn the declaration according to my own idea of the plaintiff's case, and to meet the wish of the parties to recover the whole of the mesne profits in case of a verdict in their favour. As tenants in common cannot join in one demise, their estates being several and distinct, it becomes necessary to insert six several Counts to include the whole of their fix undivided shares; but as great part of the mesne profits of the whole estate accrued due to Mrs. Beebee, in her lifetime, and of Isaac Thompson's sixth part since her death in his lifetime, it struck me as likewise requisite and necessary to add Counts upon their several demises, in order to recover the whole of the mesne profits; for without these Counts the intermediate times in which the rent of the estate during these periods of time, will necessarily form a chasm upon the record upon which no damages can be given at common law, can by a subsequent action for mesne profits, inasmuch as the day of the demise of each person's interest cannot be laid anterior to the commencement of that interest: but with respect to all the tenants in common their title did not accrue till Mrs. Beebee's death, for the last three years of her life, that is from 83 to 86, John Parks the tenant in possession, received the profits of the whole estate, which, in case of a verdict against him, he will have no right to retain. And as to Abraham's sixth share of the estate devolving to him upon

the death of his father Isaac, that did not spring till after the decease of the latter. Thomas Parks has likewise received the profits of Isaac's estate under the same defective title. Now by thus connecting the title of the plaintiff by the insertion of the second Count last noticed I presume I have enabled him to use the judgment in this ejectment (if he recovers) as complete evidence of his right to all the mesne profits in a subsequent action of trespass for them. That the person representing Mrs. Beebee and Isaac Thompson will be entitled to the rents of their estate accrued in their respective lifetimes, is no objection I conceive to the plaintiff's right to recover them, because he will appear upon the record to be legally entitled to the whole, and when recovered these representatives, and the present plaintiff may divide them according to their respective shares. I did not think it worth while to declare in the name of Abraham Thompson's next friend on account of his infancy, because a demise by an infant is good to try a title in ejectment if unobjected to by the adverse party; and it is not likely that the object on should be taken here, as the defendant will be sufficiently served in his costs by the other defendants, which is the only reason for objecting at all; but if he does object it may be done then as well as now.

T. BARROW.

## EJECTMENT.

### CASE for OPINION.

How far one tenant in common is bound by the act of the other in letting the premises without his consent? and how to proceed to recover his money by entry or ejectment?

A. B. and C. D. are severally entitled to an estate in fee of an estate in, &c. the tenant to which at Lady-day last, by the permission of C. D. but without the knowledge or consent of A. B. or his agent, quitted the same, and let another person into possession thereof as tenant. A. B. is desirous to have a tenant to the same estate that he appoints, which is not the case in respect of the person who now occupies the estate, and would therefore be advised what step she is to take either to cause the present occupier to quit, or to enable him to name another person jointly to stock the farm with him if that can be effected; and if so, *what notice is requisite to be given, and to whom? whether to the tenant who quitted at Lady-day last or to the person who now occupies the farm? or to both of them? and what such notice should contain, and whether such notice, being subscribed by the agent, to wit, A. B. will be sufficient to ground any proceedings that may be necessary afterwards to be taken?* John Case, the present occupier, who kept the doors and gates belonging to the farm locked after divers notices being given him either to quit or to admit a tenant to stock the farm jointly with him, can the tenant approved of by A. B. or can any other person, and whom, justifying forcing the locks? or what other remedy has A. B. or his tenant in that case? And if in putting his stock on the farm the same should be impounded or carried off by the present occupier, what steps would you advise to be taken, and by whom, to recover satisfaction for the injury? and upon the whole of the case how would you advise A. B. to act herein, as he is determined not to admit the present occupier to continue his tenant if it can be avoided?

**OPINION.**—It does not appear from the statement of this case what interest the former tenant had in the premises, nor when that interest is determined. If it be not, A. B. has no remedy against the present, who may justify his possession of the whole premises under the former tenant. But supposing the interest of the former tenant is determined, I am of opinion that A. B. and C. D. as

tenants in common have each of them equal rights to enter and occupy the land themselves, or to let their respective moieties to under-tenants; and therefore if A. B. is not satisfied with C. D.'s tenant, he may, without giving any previous notice either to the former or present tenant, let his moiety of land to any other person, who will have a right under that letting to enter and stock it; or if he should be opposed in entering, or should be expelled from the possession after he has entered, he may maintain an ejectment; it being clearly settled that although one tenant in common take the whole profits the other hath no remedy by law against him for taking the whole profits in an ejectment: yet if he drive out of the land any cattle of the other tenant in common, or do not suffer him to enter or occupy the land, this is an ejectment or expulsion, whereupon he may have an ejectment maintained for the one moiety and recover damages. See Coke's Comment, 332. 12. Mod. 567. and 3. Will. 18. — In case the present occupier should keep the gates and doors belonging to the farm locked, A. B. or his tenant will have a right to force them, so as it can be done peaceably, but he must not use any personal violence or be guilty of a breach of the peace. And if on putting on his stock the same should be driven off and impounded he will be entitled to maintain trespass or replevin; and if there be a complete ouster he may also maintain an ejectment.

THOMAS BARROW.

**FURTHER CASE.**—The former tenant was only such by parol agreement from year to year, and has occupied the farm under such agreement for a number of years. You will please therefore to reconsider this case and give your opinion respecting the notice necessary to be given in order to enable A. B. to recover the possession of his moiety, and to appoint a tenant of his own thretoo.

**OPINION.**—Taking it for granted that the interest of the former tenant was determined upon his quitting the premises in favour of the present tenant, and that A. B. had never received rent from the latter, or otherwise acknowledged him to be his tenant. I am of opinion that no notice is necessary to be given in order to enable A. B. to recover the possession

## EJECTMENT.—MESNE PROFITS—POSTEA.

session of his moiety ; and indeed that such a notice would be improper, and prevent him from proceeding by ejectment till the expiration of it ; and even then supposing the latter to have

been joint, it might be doubtful how far a separate notice from one of the tenants in common would be regular.

THOMAS BARROW.

Declaration for  
mesne profits.

**MIDDLESEX.** For that [whereas] the said A. on the sixth of day of December, in the second year of the reign of our said lord the king, with force and arms broke and entered into fourteen messuages, fourteen cottages, two stables, &c. with the appurtenances of the said John, situate, lying, and being in the parish of, &c. and ejected, expelled, put out, and amoved the said John from the possession, use, occupation, and enjoyment of his lands and tenements aforesaid, and kept and continued him so ejected, expelled, put out, and amoved from thence, and out of the use, occupation, and enjoyment thereof for a long time, to wit, from thenceforth until the fourth day of December, in the year of Our Lord 1762, and during all that time he took, had, and received the whole rents, issues, and profits thereof to his own use, being of great value, to wit, of the value of twenty-eight pounds, whereby the said John during all that time lost the whole profits, benefit, and advantage of the lands and tenements aforesaid, and was forced to lay out and expend, and did necessarily lay out and expend a large sum of money, to wit, the sum of twenty pounds, in and about the recovery and obtaining of his possession of his lands and tenements aforesaid from the said A.; and then and there did other wrongs to the said John, to the great damage of the said John, and against the peace, &c. ; and whereupon, &c. ; and therefore, &c.

Entry of a *possession*  
in ejectment.  
where one issue  
was found for  
defendant, and  
the other against  
her, with a writ  
of possession for  
the term recovered  
on that issue and *capias*  
*satisfaciendum* for  
the costs, &c.

**MIDDLESEX. —.** Richard Roe, on the several demises of Giles Powell, John Nash, and Robert Spoules, against Elizabeth Scott. [After the warrants of attorney (which were in a plea of *trespass and ejectment of farm*), the issue and award of *venire*, the entry proceeded as follows] : Afterwards, the process aforesaid between the parties aforesaid of the plea aforesaid is continued by the jury thereof being respited before the lord the king until the morrow of the Holy Trinity, wheresoever, &c. unless the right honourable William, earl of Mansfield, his majesty's chief justice assigned to hold pleas before the king himself, shall first come on Tuesday, the sixth of May, at Westminster Hall, in the said county of Middlesex, according to the form of the statute in such case made and provided, for default of the jurors, because none of them did appear ; at which day, before the lord the king at Westminster, comes as well the said Richard by his said attorney as the said Elizabeth by her said attorney ; and the said chief justice, before whom the said issue was tried, hath sent hitherto his record before him had in these words, to wit : Afterwards, that

Afterwards, that is to say, on the day and at the place within-mentioned, before the right honourable William, earl of Mansfield, chief justice within-named, John Way, gentleman, being associated to the said chief justice according to the form of the statute in such case made and provided, come as well the within-named Richard as the within-named Elizabeth by their attornies within contained, and the jurors of the jury whereof mention is within named, being summoned, likewise come, who to say the truth of the within content being choosen, tried, and sworn, upon their oath say, as to the trespass and ejectment in the tenements first within mentioned, and in the said declaration expressed to have been demised to the said Richard by the said G. Howell and John N. with the appurtenances, that the said Elizabeth is not guilty thereof, as the said Elizabeth hath within pleading alleged; and as to the trespass and ejectment in the tenements secondly within mentioned, and in the said declaration expressed to have been demised to the said Richard by the said Robert Sprutes, with the appurtenances, the said jurors upon their oath aforesaid say, that the said Elizabeth is guilty thereof in manner and form as the said Richard hath within complained against her, and they assess the damages of the said Richard by reason of the trespass and ejectment aforesaid, besides his costs and charge by him about his suit in this behalf expended to one shilling, for those costs and charges to forty shillings; therefore it is considered, that the said Richard do not cover against the said Elizabeth his term aforesaid yet to come and unexpired of and in the said tenements secondly above-mentioned in the said declaration expressed to have been demised to the said Richard by the said Robert Sprutes, with the appurtenances, and the damages, costs, and charges by the jurors aforesaid in manner and form aforesaid assessed, and also pounds for the increase of his said costs and charges to the said Richard at his request by the said court now here adjudged, which said damages, costs, and charges in the whole amount to pounds: And the said Richard in mercy for his last complaint against the said Elizabeth, as to the trespasses and ejectment mentioned in the said tenements in the said declaration first above mentioned, whereof the said Elizabeth is by the jurors aforesaid in form aforesaid, and that the said Elizabeth go thereof without a day, etc., and upon this the said Richard prays the writ of the lord the king to be directed to the sheriff of the said county, to cause him to have full possession of his term aforesaid yet to come and unexpired of and in the said tenements secondly above-mentioned, and in form aforesaid recovered, and it is granted to him returnable before the lord the king on \_\_\_\_\_ wheresoever the said lord the king shall then be in England.

Judgment given  
at May 1851.

M. y.

GEORGE THE THIRD, by the grace of God, of Great Brittain, France, and Ireland, king, defender of the faith, &c. do hereby give unto the sheriff of Middlesex, greeting: Whereas Richard Roe lately in our court before us, by our writ, and by the judgment of the said court recovered against Elizabeth heret, rate of West-  
Ver. X. T. mitter,

## EJECTMENT.—DECLARATION

minster, in your county, widow, his term yet to come and unexpired of and in one messuage, one stable, one outhouse, one garden, and ten acres of land, with the appurtenances, in the several parishes of St. Margaret, Westminster, and of St. George, Hanover Square, in your county, which Robert Sponks, on the twenty-ninth of March, in the twenty-eighth year of our reign, had demised to the said Richard, to hold from the twenty-fifth of March then instant to the full end and term of seven years then next following, and fully to be complete and ended; by virtue of which demise the said Richard entered into the same tenements, with the appurtenances, and was possessed thereof; and being so possessed, the said Elizabeth afterwards, that is to say, on the thirtieth day of March, in the twenty-eighth year aforesaid, with force and arms entered into the said tenements, with the appurtenances, and ejected the said Richard out of his said farm, his said term not being then or yet expired, whereof the said Elizabeth is convicted, as appears to us of record; therefore we command you, that without delay you cause the said Richard to have possession of his said term yet to come of and in the tenements aforesaid, with the appurtenances, and in what manner you shall have executed this our writ do you make appear to us in three weeks from the day of the Holy Trinity wheresoever we shall then be in England: we likewise command you, that you take the said Elizabeth, if she be found in your bailiwick, and safely keep her so that you may have her body before us on the day aforesaid, wheresoever, &c. to satisfy the said Richard                      pounds for the damages which he has sustained as well by reason of the trespass and ejectment aforesaid as for his costs and charges by him about his suit in that behalf expended, whereof the said Elizabeth is also convicted, as appears to us of record, and have you then there this writ: Witness William, earl of Mansfield, at Westminster, the twenty-third of May, in the twenty-eighth year of our reign.

S. MARRYAT.

Declaration in  
trespass and  
ejectment, under  
several demises,  
and by different  
persons at different  
times.

KENT, to wit. Charles Ward,                      of Maidstone, in the county of Kent, esquire, John Luck, late of the same place, yeoman, and Thomas Howard, late of the same place, yeoman, were attached to answer unto John Denn in a plea; wherefore with force and arms they entered into one messuage, two stables, two barns, two gardens, two curtilages, eight acres of land, eight acres of meadow, and eight acres of pasture, with the appurtenances, in the parish of Westerham, in the said county, which Richard Hoddesden demised to the said John Denn for a term which is not yet expired, and ejected him from his said farm; and also wherefore with force and arms they entered into one other messuage, two other stables, two other barns, two other gardens, two other curtilages, eight other acres of land, eight other acres of meadow, and eight other acres of pasture, with the appurtenances, in the said parish of Westerham, in the said county, which

which Thomas Hoddesden demised to the said John Denn for a term which is not yet expired, and ejected him from his said last-mentioned farm §: And also wherefore with force and arms they entered into one other messuage, &c. with the appurtenances, in the said parish of W. in the said county, which the said *Richard Hoddesden* demised to the said John Denn for a term which is not yet expired, and ejected him from his said last-mentioned farm: And also wherefore with force and arms they entered into one other messuage, &c. with the appurtenances, in the said parish of W. in the said county, which the said *T. Hoddesden* demised to the said John Denn for a term which is not yet expired, and ejected him from his said last-mentioned farm. [The recital of the writ as to the fifth and sixth Counts is a mere repetition of what follows this mark above §], and other wrongs to him did, against the peace of our lord the now king, and to the great damage of the said John Denn; and thereupon the said John Denn, by Henry Holt his attorney, complains, that whereas the said Richard Hoddesden, on the tenth of October A. D. 1768, at the said parish of W. in the said county, had demised to the said J. D. the tenements first above-mentioned with the appurtenances, to have and to hold the same tenements, with the appurtenances, to the said J. D. and his assigns, from the ninth of October to the full end and term of thirty-one years from thence next ensuing, and fully to be complete and ended; by virtue of which said demise the said John D. entered into the said tenements first above-mentioned, with the appurtenances, and was thereof possessed, and being so possessed thereof the said Charles W. John Luck, and Thomas Howard afterwards, to wit, on the said tenth of October in the year aforesaid, with force and arms entered into the said tenements first above-mentioned, with the appurtenances, which the said Richard Hoddesden demised to the said John D. in manner aforesaid for the term aforesaid, which is not yet expired, and ejected him from his said farm: And also that whereas the said Thomas Hoddesden, on the said tenth of October, A.D. aforesaid, at the said parish of W. in the said county, had demised to the said John D. the said tenements secondly above mentioned, with the appurtenances, to have and to hold the same tenements, with the appurtenances, to the said John D. and his assigns from the ninth of October aforesaid to the full end and term of thirty-one years from thence next ensuing, and fully to be complete and ended; by virtue of which said last-mentioned demise the said John Denn entered into the said tenements secondly above-mentioned, with the appurtenances, and was thereof possessed; and being so possessed thereof, the said Charles W. John Luck, and Thomas H. afterwards, to wit, on the said tenth of October A. D. aforesaid, with force and arms entered into the said tenements secondly above-mentioned, with the appurtenances, which the said Thomas Hoddesden demised to the said John D. in manner aforesaid for the term last aforesaid, which is not yet expired, and ejected him from his said last-mentioned farm: And also that whereas the said *Richard Hoddesden* on the *sixteenth* "twelfth"

## EJECTMENT.—PLEA.

day of November A. D. 1777 “1787,” at the said parish of W. in the said county, had demised to the said John D. the said tenements *thirdly* “*fifthly*” above-mentioned, with the appurtenances, to have and to hold the same tenements, with the appurtenances, to the said John D. and his assigns from the *fifteenth* “*eleventh*” day of November “*last*” aforesaid to the full end and term of twenty-one years from thence next ensuing and fully to be complete and ended; by virtue of which said last-mentioned demise the said John D. entered into the said tenements *thirdly* “*fifthly*” above-mentioned, with the appurtenances, and was thereof possessed; and being so possessed thereof, the said Charles W. John L. and Thomas H. afterwards, to wit, on the said sixteenth “*twelfth*” day of November A. D. last aforesaid, with force and arms entered into the said tenements *thirdly* “*fifthly*” above-mentioned, with the appurtenances, which the said Richard Hoddesden demised to the said John Denn in manner aforesaid, for the term last aforesaid, which is not yet expired, and ejected him from his said last-mentioned farm: And also that whereas the said Thomas Hoddesden, on the said *sixteenth* “*twelfth*” day of November A. D. last aforesaid, at the said parish of W. in the said county, had demised to the said John Denn the tenements *fourthly* “*lastly*” above-mentioned, with the appurtenances, to have and to hold the same tenements, with the appurtenances, to the said John D. and his assigns from the *fifteenth* “*eleventh*” day of November “*last*” aforesaid, to the full end and term of twenty-one years from thence next ensuing, and fully to be complete and ended; by virtue of which said last-mentioned demise the said John D. entered into the said tenements *fourthly* “*lastly*” above-mentioned, with the appurtenances, and was possessed thereof, and being so thereof possessed, the said Charles W. John L. and Thomas H. afterwards, to wit, on the said *sixteenth* “*twelfth*” day of November A. D. last aforesaid, with force and arms entered ~~in~~ to the said tenements *fourthly* “*lastly*” above-mentioned, with the appurtenances, which the said Thomas Hoddesden demised to the said John D. in manner aforesaid for the term last aforesaid, which is not yet expired, and ejected him from his said last-mentioned farm [The fifth and sixth Counts were exactly like the third and fourth, except what is in Italic, and inserting what is within inverted commas], and other wrongs to him did, against the peace of our lord the now king; wherefore the said John D. says that he is injured, and hath sustained damage to the value of five hundred pounds, and therefore he brings suit, &c.

And the said Charles W. John L. and Thomas H. by John Parker their attorney, come and defend the force and injury, and say, that they are not guilty of the several trespasses and ejectments above laid to their charge, in manner and form as the said John Denn hath above thereof complained against them; and of this they put themselves upon the country, &c. and the said John D. doth the like; therefore it is commanded to the said  
themselves

Sheriff that he cause to come before our lord the king on the morrow of the Holy Trinity, wheresoever he shall then be in England, twelve, &c. by whom, &c.; and who neither, &c. to recognize, &c. because as well, &c. [Here followed two continuances by *vi recomes non misit breve*; the one to the morrow of All Souls, the other to eight days of St. Hilary]; at which day, before our lord the king at Westminster, come the parties aforesaid by their attornies aforesaid, and the sheriff doth not send the said writ, nor hath he done any thing thereupon, and upon this the said Charles W. John L. and Thomas H. relinquishing so much of their said plea by them above pleaded as relates to the said tenements fifthly and lastly above-mentioned, with the appurtenances, say, that they cannot deny the said action of the said John Denn in respect of those trespasses and ejectments, nor but that they are guilty thereof in manner and form as the said John Denn hath above thereof complained against them: And thereupon the said John Denn acknowledges that he will not further prosecute against the said Charles W. John L. and Thomas H. in respect of the trespasses and ejectments in the several tenements firstly, secondly, thirdly, and fourthly above-mentioned, with the appurtenances: And he further saith and acknowledgeth that he hath sustained damages by reason of the trespasses and ejectments above confessed by the said Charles W. John L. and Thomas H. in the said tenements fifthly and lastly above mentioned, besides his costs and charges by him about his suit in this behalf expended to one shilling and no more; and because the said Charles W. John L. and Thomas H. do not deny the said allegation, but admit the same to be true, the said John Denn prays judgment and his damages so acknowledged in form aforesaid, together with his costs and charges aforesaid to be adjudged to him, &c.; therefore it is considered that the said John Denn recover against the said C. W. J. L. and T. H. his several terms yet to come and unexpired of and in the said tenements fifthly and lastly above-mentioned, with the appurtenances, and the damages in form aforesaid acknowledged, and also ten pounds sixteen shillings and threepence for his costs and charges by him about his suit in that behalf expended by the court of our lord the king now here adjudged to the said John D. with his assent, which said damages, costs, and charges amount in the whole to ten pounds seventeen shillings and threepence, and let the said John Denn be in mercy for his false complaint against the said C. W. J. L. and T. H. as to the trespasses and ejectments the said tenements firstly, secondly, thirdly, and fourthly above-mentioned, with the appurtenances, and let the said C. W. John L. and T. H. go thereof without day, &c.; and the said John Denn prays the writ of the lord the king to be directed to the sheriff of the said county, to cause him to have full possession of the several terms yet to come of and in the said tenements fifthly and lastly above-mentioned, with the appurtenances, and it is granted to him returnable before our lord the king in

Retraxit.

Judgment.

Merc.

## DECLARATION.—MESNE PROFITS.

eight days of the Purification of the Blessed Virgin Mary, where-  
soever he shall then be in England.

S. MARRYAT.

**Declaration in**  
**trespass after**  
**judgment in**  
**ejectment by de-**  
**fault for mesne**  
**profits in the**  
**name of the no-**  
**nominal plaintiff.**

HAMPSHIRE, to wit. John Doe complains of Sarah Mit-  
chell being in the custody of the marshal of the Marshallea of our  
lord the now king before the king himself; for that the said Sarah,  
on, &c. in the nineteenth year of the reign of our said lord the now  
king, with force and arms broke and entered into one messuage,  
one curtilage, and one rood of land, with the appurtenances, in  
the parish of, &c. in the county of H. aforesaid of the said John,  
and ejected, put out, and amoved the said John from his possession  
and occupation thereof for a long time, to wit, from thence until  
the day of exhibiting of this bill, and during all that time had, re-  
ceived, perceived, and took all the issues and profits of the said  
tenements being of the yearly value of five pounds to his own use,  
whereby the said John not only lost all the issues and profits of the  
said tenements during all that time, but was forced and obliged to  
lay out and expend, and did necessarily lay out and expend divers  
sums of money, amounting in the whole to forty pounds, in and  
about the obtaining possession of the said tenements, to wit, at,  
&c. in, &c. and the said Sarah then and there did other injuries to  
the said plaintiff, against the peace of our lord the now king, and  
to the damage of the said John of forty pounds, and therefore he  
brings his suit.

W. LAMBE.

**Vide Runn. E-**  
**jectments, to.**  
**343. & 345 for**  
**various forms,**  
**and Lilly's Ent.**  
**194.**

**Costs of the**  
**ejectment.**

Michaelmas Term, 25. Geo. III.

**Entry of final**  
**judgment on the**  
**roll in an action**  
**of ejectment af-**  
**ter verdict for**  
**defendant at the**  
**trial.**

DEN  
*against*  
ROBERTSON.

MIDDLESEX, to wit. John Denn puts in  
his place A. B. his attorney against Fenton Ro-  
binson, in a plea of trespass and ejectment: Mid-  
dlesex, to wit. Fenton Robinson puts in his place C. D. his attor-  
ney, at the suit of the said John Denn in the plea aforesaid.  
Middlesex, to wit. [Here insert the declaration, plea, award  
of *venue*, down to second *placita* verbatim, then go on]; at  
which day, before our lord the king at Westminster, came the  
parties aforesaid by their attorneys aforesaid, and the sheriff of Mid-  
dlesex did not return the said writ, nor did he do any thing there-  
upon; therefore, as before, let a jury thereupon come before our  
lord the king wheresoever he shall then be in England, in eight days  
of St Hilary, by whom, &c. and who neither, &c. because as well,  
&c. to recognize, &c. the same day is given to the parties afore-  
said at the same place, at which day, &c. [Here insert a continu-  
ance to Easter term]; afterwards the process thereof being continu-  
ed between the parties aforesaid of the plea aforesaid, by the jury  
aforesaid being respited between them before our said lord the king  
wheresoever, &c. on the morrow of the Holy Trinity, unless the  
right

**Continuance by**  
**processes to the**  
**next term.**

**Jury respited.**

right honourable William, earl of Mansfield, his majesty's chief justice, assigned to hold the pleas before the king himself, shall first come on Friday the ninth day of May, at Westminster Hall, in the said county, according to the form of the statute in such case made and provided, for default of the jurors, because none of them appeared; at which day, before our lord the king at Westminster, the said J. D. and F. R. came by their respective attornies aforesaid, and the said chief justice hath sent hither his record had in these words, to wit: Afterwards, that is to say, on the day and at the place within contained before William, earl of Mansfield, chief justice within named, John Way, gentleman, being associated to the said chief justice by force of the statute in that case made and provided, came as well the within named J. D. as the within named F. R. by their respective attornies also within named, and the jurors of the jury whereof mention is within made being called likewise come, who to say the truth of the premises within contained, being elected, tried, and sworn, say, that the said F. R. is not guilty of the trespass and ejectment within laid to his charge, in manner and form as the said J. D. hath within complained against the said F. R.; therefore it is considered that the said J. D. take nothing by his writ aforesaid, but for his false complaint against the said F. R. in mercy, and that the said F. R. go thereof without day, &c.; and it is further considered, that the said F. R. recover against the said J. D. for his costs and charges by him laid out and expended in and about his defence in this behalf sustained to the said F. R. by the court of our said lord the king now here with his assent, according to the form of the statute in such case made and provided, and the said F. R. may have execution thereof, &c.

*Drawn by J. GRAHAM.*

HAMPSHIRE, to wit. John Doe puts in his place A. B. his attorney against Sarah Mitchell in a plea of trespass: Hampshire, to wit. The said Sarah Mitchell puts in her place C. D. her attorney, at the suit of the said John Doe in the plea aforesaid: Hampshire, to wit. Be it remembered that in Michaelmas term last past, before our lord the king at Westminster, came John Doe, by A. B. his attorney, and brought into the court of our said lord the king his certain bill against Sarah Mitchell, being in the custody of our sovereign lord the king before the king himself of a plea of trespass, and there are pledges for the prosecution thereof, to wit, John Doe, and which said bill follows in these words, to wit, Hampshire, to wit, &c. [Here insert the declaration]; and now at this day, that is to say, on Monday next after eight days of St. Hilary in this same term, to which day the said Sarah had leave to imparl to the said bill, and then to answer the same, as well the said John Doe by his attorney aforesaid, as the said Sarah by C. D. her attorney, do come before our lord the king, and the said Sarah defends the wrong and injury when, &c. and says nothing in bar or preclusion of the aforesaid action of the said

## EJECTMENT.—JUDGMENT.

John, whereby the said John remains therein against the said John undefended, wherefore the said John ought to recover against the said Sarah his damages sustained by occasion of the premises; but because it is not known to the court of our lord the king now here what damages the said John hath sustained by the occasion aforesaid, the sheriff is commanded, that by the oath of twelve good and lawful men of his bailiwick he diligently enquire what damages the said John hath sustained, as well by occasion of the premises aforesaid as for his costs and charges by him about his suit in this behalf expended, and that he send the inquisition, which he shall thereupon take, to our lord the king at Westminster, on, &c. next after, &c. under his seal and the seals of those by whose oaths he shall take that inquisition, together with this writ of our lord the king to him in that behalf directed, the same day is given to the said Sarah at the same place.

# I N D E X.

## GENERAL DIVISIONS OF HEADS, AND LEADING TITLES IN THE CIVIL DIVISION.

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#### A N A L Y S I S.

##### EJECTMENT.

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baron, seised in fee, granted by copy to A. H. in fee, who  
had issue four sons and two daughters, and surrendered to  
his wife for life, and afterwards to his *three* younger  
sons and *two* daughters in fee, equally to be divided, who  
were admitted, and all of them except A. died, who be-  
ing sole seised by the survivorship, married J. N. who had  
issue one of the defendants, who, on the death of his father  
and mother, entered and was seised, on whom plaintiff en-  
tered, and the other defendant as his servant entered, and  
ejected plaintiff, as they lawfully might. Replication,  
as to *three fifth parts*, admits that they are copyhold, but  
says that said A. H. had issue one W. H. A. H. the  
younger, and R. H. and G. H. sons, and G. H. and A. H.  
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common; that *three* of them died, and their parts descended  
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## PLEAS MORE SPECIAL.

- That lessor demised to defendant, who was possessed till lessor entered and demised to plaintiff, and defendant re-entered. Replication, that lessor demised to plaintiff, and *traverse* that he demised to defendant, 1. *Bro.* 211. *Ra.* 251.
- That R. seised, demised to defendant, and died, and reversion descended to lessor of plaintiff, who entered on defendant, and demised *ad plait.* and defendant re-entered. Replication, that C. seised made seoffment to use of R. for life, remainder in fee to lessor; R. demises to defendant, and dies; lessor enters on him, and demises to plaintiff; and *traverse* that R. died seised in fee, and issue, 1. *Bro.* 212.
- That W. seised, devises to J. for life, remainder to R. and J. for twenty-one years, remainder to M. and E. his sons in tail, remainder to right heir of W. who died, and J. enters, and was seised for life. E. one of the sons and M. the other, devise to lessor of plaintiff on condition and deed; tenant for life dies, and R. and J. enter on the term for twenty-one years; condition is broken, and term expires; E. and H. as cousin and heir, enter for condition broken. Replication, that M. being seised devised to lessor of plaintiff in fee, and *traverse* of devise on condition. Demurrer, *Wi. Ent.* 396. 340.
- That E. seised of the manor, enfeoffed T. and M. to hold to them and the heirs of T. who grants customary lands to defendant in fee. Replication, that E. was seised, whom T. disseised, and granted to defendant; E. re-entered, and enfeoffed T. and M. as above; T. died and M. survived, who entered on defendant, and demised to plaintiff, and *traverses* seoffment in the bar. Demurrer special, *Wi. Ent.* 398. 432.
- That queen E. being seised, demised for years to M. reversion descended to king J. who demised to C. for years, who demised to defendant. Replication, confesses lease to M. and reversion in the king; but pleads that the king, before the demise to C. granted the reversion to E. and F. who by indenture inrolled fold to lessor of plaintiff. Demurrer, *Wi. Ent.* 413. 447.
- Plea to declaration on demise for forty years, that lessor was *laicus*, and indenture was read to him as for twenty years, and *traverses* that he demised for forty years, and issue on the *traverse*, *Pl. Gen.* 404.
- Plea on demise by husband and wife, that husband at the time of the demise had nothing in the lands, unless in right of his wife; he died, and defendant as servant of the widow re-entered. Replication, that she, *after the death of husband*, accepted rent. Rejoinder, on acceptance, *Ra.* 252.
- That W. prior, seised, demised to defendant lands in reversion for years; reversion is surrendered to the king, who grants to A. in fee, who demises to plaintiff. Replication, that R. prior, demised to defendant for years, and W. prior, demised to defendant for years, and that the statute restrains leases in reversion to have continuance for twenty-one years only, which expired. Rejoinder, that defendant surrendered the first lease to W. prior. Surrejoinder, that R. prior, demised to defendant

- defendant for years, who was possessed at the time of the demise by W. prior, and traverse of surrender of the term, *Co. Ent.* 187.
- That the king, being seised, granted to two for their lives, and the reversion to R. for years who made defendant executor. The king granted the reversion to S. who demised to plaintiff. Replication, that the grant for years was with a proviso of re-entry for rent arrear, and that S. after the inquisition, by virtue of a commission re-entered for rent arrear. Demurrer. *Co. Ent.* 192.
- That the king, being seised, demised to L. who assigned to defendant, who was possessed till lessor entered on him and disseised R. and demised to plaintiff, and defendant re-entered. Replication, that lessor seised demised to plaintiff *prout*, &c. and traverse of disseisin, 3. *Br.* 207.
- That the king, being seised, demised for years to K. and in reversion for years to J. who assigns to lessor, who is an *alien artificer*, and therefore void, and by reason thereof J. demised to defendant. Replication, that lessor is native natural born subject, *Her.* 361.
- That W. seised, demised for years to G. who demised to defendant. Replication, confesses lease by W. to G. but pleads that G. before the demise to defendant, demised to lessor. Rejoinder maintains plea, and traverses that G. before demise to defendant, demised to lessor, *W. Ent.* 363.
- Plea to part, that A. seised, demised for years to G. and granted the reversion to the king; G. assigned to R. who assigned to E. who died intestate, and administration was committed to defendant; to residue, that king, being seised, demised to K. who assigned to E. &c. Replication to both pleas, that E. possessed, devised to lessor, and made him executor, and traverses that E. died intestate, *Alb.* 272.
- That E. seised of lands in trust for S. and an *usurious contract* was made between N. and S. &c. *Her.* 367.
- That W. seised of the manor, granted copyhold lands in reversion to defendant and others for their lives. Replication, that W. demised the manor to C. and R. for years determinable on the life of M.; they assign to M. who granted reversion of lands to H. for life. Rejoinder, that D. was before seised of the manor which descended to three co-heiresses, whom W. disseised, &c. Surrejoinder, maintains Replication, and traverses disseisin, *Co. Ent.* 184.
- That lessor, seised, sold the lands to defendant by indenture inrolled, and since by disseisin, demised to plaintiff. Replication, that the sale was *with condition of re-entry* for monies not paid, and traverses disseisin. Demurrer, *Co. Ent.* 191.
- That A. seised, enfeoffed R. who enfeoffed defendant, who was seised till lessor disseised, &c. Replication, that lessor and wife being seised in right of his wife, demised to plaintiff, &c. and traverses that lessor disseised defendant, 3. *Br.* 205.
- Plea as to taking the goods, not guilty; to the ejection, that B. was seised, and descent to defendant as cousin. Replication, that J. seised, made feoffment to uses of T. and wife in tail which descended to said B. in tail, who died without issue, and remainder in fee descended to lessor, and traverses that B. died seised in fee, *Alb.* 278.
- That W. seised of the manor, levied a fine, with render to him in tail, remainder to the king in tail, remainder to W. in fee; W. died without issue; the king entered and his successor died without issue; lands reverted to the heir of W. Replication, that the king, being seised, granted to the queen for life by fine, and her successor granted the reversion in fee to lessor. Demurrer, *Ra.* 254. *Plo.* 224.
- That the king, seised, granted to the queen for life, who demised to plaintiff for years, and granted reversion to C. for life who assigned to defendant; the king granted reversion to three, who release to defendant, who request the plaintiff to go with them to suppress Wyatt in the rebellion, who refused, for which defendant entered for the forfeiture according to the statute. Replication, that at the time of the request he was infirm, *Co. Ent.* 69.
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tendering rent; lands descended to M. who accepted rent, and having a son living was attainted of treason. Replication confesses gift in tail to T. demise to defendant, and descent to M.; but pleads that M. entered and was attainted, and the king granted lands to plaintiff. Rejoinder maintains the plea, and traverses that M. entered into the lands, *Co. Ent.* 78.

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## QUARE IMPEDIT.

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OUR lord the king hath sent to his right trusty and well beloved <sup>(a) Writ of error</sup> Alexander, lord Loughborough, his chief justice of the bench here, his writ closed in these words : George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. to our right trusty and well-beloved Alexander, lord Loughborough, our chief justice of the bench, greeting, so far as in the record and process, as also of giving judgment in a plaint which was in our court before you and your associates, our justices of the bench by our writ between Ann Metcalfe, widow, John, bishop of Carlisle, and James, earl of Lonsdale, for that the said bishop and earl should permit the said Ann to present a fit person to the church of Kirkbridge, in the county of Cumberland, which was void and in the gift of the said Ann, as it is said manifest error hath intervened to the great damage of the said bishop and earl, as by their complaint we are informed; we being willing that the said error (if any be) be fully amended, and full and speedy justice done to the said parties in behalf, do command you that if judgment be given thereupon, then you send to us distinctly and plainly under your seal the record and process of the said plaint, with all things touching the same and this writ; so that we may have them on the morrow of All Souls wheresoever we shall then be in England, that inspecting the record and process aforesaid we may cause further to be done thereupon for amending the said error as of right, and according to the law and custom of England shall be meet to be done. Witness ourself at Westminster the eighth day of July, in the twenty-eighth year of our reign. Tournay. The answer of Alexander, lord Loughborough, chief justice within-named, the record and process of the plaint within-mentioned, with all things touching the same, I send before our lord the king wheresoever, &c. at the day within contained, in a certain record to this writ annexed, as I am within commanded. Loughborough. Pleas inrolled at Westminster, before the right honourable Alexander, lord Loughborough and his brethren, justices of his majesty's court of common bench of Trinity term, in the twenty-eighth year of the reign of our sovereign lord George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. Rolls 264 and 265. Cumberland, to wit. John Bishop of Carlisle, and James earl of Lonsdale, were summoned to answer Ann Metcalfe, widow, of a plea that they permit the said Ann to pre-

Declaration in  
*quare impedit.*

(a) See Error, ante.

## DECLARATION BY PATRON.

sent a fir person to the rectory of the parish church of K. in the said county of C. which is now vacant, and belongs to her presentation; and whereupon the said Ann, by T. H. her attorney, complains, that whereas one sir James Dalston, baronet, now deceased, was in his lifetime, to wit, on, &c. seised of the manor of K. with its appurtenances, to which manor the advowson of the said rectory, with its appurtenances then belonged, in his demesne as of fee; and being so seised thereof as aforesaid, he the said sir J. D. afterwards, to wit, on, &c. at, &c. presented to the said church, being then vacant, one G. G. his clerk, who on the presentation of the said sir J. D. was admitted, instituted, and inducted into the same in the time of peace, in the time of our sovereign lord George the Second, late king of Great Britain; and being so seised thereof afterwards, to wit, on, &c. at, &c. in, &c. by a certain indenture of bargain and sale then and there made between the said sir J. D. (by his name and description therein mentioned) of the one part, and Thomas Metcalfe, clerk (by his name and description therein mentioned) of the other part; one part of which said indenture, sealed with the seal of the said sir George, the said Ann now brings here into court, the date whereof is the day and year last aforesaid, for the consideration therein mentioned, the said sir J. bargained and sold to the said T. M. the said advowson of the rectory aforesaid, with the rights, members, and appurtenances thereof, to have and to hold the same unto the said T. M. from the day of the date of the said indenture unto the full end and term of one year from thence next ensuing, and fully to be complete and ended, as by the said indenture more fully appears, by virtue whereof the said T. M. was possessed of the said advowson for the said term; and being so possessed thereof, and the reversion thereof belonging to the said sir J. as aforesaid, he the said sir G. afterwards, to wit, on, &c. at, &c. in, &c. by a certain other indenture then and there made between the said sir G. (by his name, &c.) of the one part, and the said T. M. by, &c. of the other part (one part of, &c.) granted and released to the said T. M. his heirs and assigns for ever, the reversion of the said advowson of the rectory aforesaid, with the appurtenances, to have and to hold the same unto the said Thomas, his heirs and assigns for ever, to the use of the said Thomas, his heirs and assigns for ever, as by the said last-mentioned indenture more fully appears; by virtue whereof, and by force of the statute made for transferring uses into possession, he the said Thomas was seised of and in the said advowson as in gross by itself as of fee and right; and being so seised thereof, he the said Thomas afterwards, to wit, on, &c. at, &c. died seised of his said estate therein, upon whose death the said advowson of the said rectory descended to one W. M. as the son and heir of the said T. M. whereby the said W. M. was seised of the said advowson of the said rectory as in gross by itself as of fee and right; and the said W. M. being so seised thereof afterwards, to wit, on, &c. by a certain indenture then and there made between the said W. M. (by his,

&c.) of the one part, and the said A. M. mother of the said W. M. (by her, &c.) of the other part, (one part of, &c.) the said W. M. for the consideration in the said last-mentioned indenture mentioned, did bargain and sell to the said Ann the said advowson of the said rectory, with the appurtenances, to have and to hold the same to the said Ann from the day of the date of the said last-mentioned indenture unto the full end and term of one whole year from thence next ensuing, and fully to be complete and ended, as by the said last-mentioned indenture more fully appears, by virtue whereof the said Ann was possessed of the said advowson for the said last-mentioned term; and being so possessed thereof, and the reversion thereof belonging to the said W. M. as aforesaid, he the said W. M. afterwards, to wit, on, &c. by a certain other indenture then and there made between the said W. M. (by, &c. of the one part); and the said Ann, (by, &c.) of the other part (one part of, &c.) granted and released to the said Ann and her heirs his said reversion of the said advowson of the rectory aforesaid, with the appurtenances, to have and to hold the same unto the said Ann and her heirs for ever, as by the said last-mentioned indenture more fully appears; by virtue whereof and by force of the statute made for transferring uses into possession, the said Ann was seised of and in the said reversion of the said advowson of the said rectory as aforesaid as in gross by itself as of fee and right; and the said Ann being so seised thereof, the said church afterwards, to wit, on, &c. became vacant by the death of the said G. G. whereby it then and there belonged and now belongs to the said Ann, to present a fit person to the said church, to being vacant as aforesaid, but the said bishop and earl will not permit her, but unjustly hinder her; wherefore she the said Ann saith she is injured, and hath sustained damage to the value of one thousand pounds, and therefore she brings her suit, &c.

And the said John, bishop of Carlisle, by A. B. his attorney, Plea by bishop. comes and defends the wrong and injury, when, &c. and saith that he hath nothing, nor doth he claim to have any thing in the rectory of the church aforesaid but the admission, institution, and induction of the rectors of the same church, as ordinary of the same church; and this, &c.; wherefore, &c. if the said Ann, without assigning a special impediment in the said bishop, ought to have or maintain her said action against him, &c.: And the plea by pseudo said James, earl of L. by A. B. his attorney, comes and defends patron. the wrong and injury, when, &c. and says, (*actio nan*); because he says, that the said sir J. D. deceased, in his lifetime, and before the making of the said indenture of lease and release to the said T. M. in the said declaration mentioned, to wit, on, &c. was seised in his demesne as of fee of and in the manor of K. in the county of C. with the appurtenances, to which said manor the said advowson of the said rectory, with the appurtenances, was then appendant, and being so seised as aforesaid, he the said sir J. D. afterwards, and whilst he was so seised, to wit, on, &c. presented to the same church, the same being then vacant, the said

## QUARE IMPEDIT.

Averment that  
deed is in the  
possession of ad-  
vowse party.

*G. G. his clerk, who on the said presentation of the said sir J. D. was admitted, instituted, and inducted into the same, and by virtue of the said presentation remained and continued in the possession of the said church from thence until the same became vacant by his death, as in the said declaration is alledged; and the said sir J. D. being so seised of the said manor as aforesaid, with the appurtenances, and the said advowson being so appendant to the same as aforesaid, whilst he was so seised, and whilst the said advowson was so appendant as aforesaid, and before the making of the said indenture of bargain and sale and release to the said T. M. in the said declaration mentioned, to wit, on, &c. at, &c. by a certain indenture of bargain and sale then and there made between the said sir J. D. (by his, &c.) of the one part, and Joshua Wilson, (by his, &c.) of the other part, which said indenture is now in the possession of the said Ann, so that the said earl cannot bring the same into court here; he the said sir J. D. for the considerations therein mentioned, bargained and sold to the said J. W. the said manor, together with the said advowson of the rectory aforesaid, so being dependant thereto as aforesaid, and all other the appurtenances thereto belonging, to have and to hold the same unto the said J. W. from the day of the date of the said indenture unto the full end and term of one whole year from thence next ensuing, and fully to be complete and ended, as by the said indenture more fully appears; by virtue whereof the said J. W. became and was possessed of the said manor and advowson, with the appurtenances, for the said term; and being so possessed, and the reversion thereof belonging to the said sir J. D. as aforesaid, he the said sir J. D. afterwards, to wit, on, &c. by a certain other indenture then and there made between the said sir J. D. (by his, &c.) of the one part, and the said J. W. (by his, &c.) of the other part, which said last-mentioned indenture, sealed with the seal of the said sir J. D. is in the possession of the said Ann, so that the said earl cannot bring the same into court here, granted and released to the said J. W. his heirs and assigns for ever the said reversion of the said manor and advowson, with the appurtenances, to have and to hold the same unto the said J. W. his heirs and assigns for ever, to the use of the said J. W. his heirs and assigns, as by the said last-mentioned indenture more fully appears; by virtue whereof, and by force of the statute made for transferring uses into possession, he the said J. W. then and there became and was seised in his demesne as of fee of and in the said manor, and as of fee and right of and in the said advowson, so being appendant thereto as aforesaid, with the appurtenances, and so remained and continued from thence until and at the time of making the indenture of lease and release thereof to W. M. as hereinafter mentioned: And the said earl in fact further says, that the said J. W. being so seised of the said manor and advowson as aforesaid respectively, and the said advowson being so appendant to the said manor as aforesaid, whilst the said J. W. was so seised, and whilst the said advowson was so appendant to the said manor as aforesaid, to wit, on, &c. by a certain other*

## PLEA BY PATRONS.

other indenture of bargain and sale then and there made between the said J. W. (by his, &c.) of the one part, and W. M. (by his, &c.) of the other part, which said last-mentioned indenture is now in possession of the said Ann, so that the said earl cannot bring the same into court here, he the said J. W. for the considerations therein mentioned, bargained and sold to the said W. M. the said manor, together with the aforesaid advowson of the rectory aforesaid, so being appendant thereto as aforesaid, and all other the appurtenances thereto belonging, to have and to hold the same unto the said W. M. from the day of the date of the said last-mentioned indenture unto the full end and term of one whole year from thence next ensuing, and fully to be complete and ended, as by the said last-mentioned indenture more fully appears, by virtue whereof the said W. M. became and was possessed of the said manor and the advowson, with the appurtenances, for the said last-mentioned term; and being so possessed thereof, and the reversion thereof belonging to the said J. W. as aforesaid, he the said J. W. afterwards, to wit, on, &c. by a certain other indenture then and there made between the said J. W. (by his, &c.) of the one part, and the said W. M. (by his, &c.) of the other part, which said last-mentioned indenture sealed with the seal of the said J. W. is in the possession of the said Ann, so that the said earl cannot bring the same into court here, granted and released to the said W. M. his heirs and assigns for ever the said reversion of the said manor and advowson, with the appurtenances, to have and to hold the same unto the said W. M. his heirs and assigns for ever, as by the said last mentioned indenture more fully appears, by virtue whereof, and by force of the statute made for transferring uses into possession, he the said W. M. then and there became and was seised in his demesne as of fee of and in the said manor, and as of fee and right of and in the said advowson, and so being appendant thereto as aforesaid, with the appurtenances, and so remained and continued from thence until and at the time of the making of the said indenture of lease and release thereof to the said earl as hereafter mentioned: And the said earl in fact further saith, that the said W. M. being so seised of the said manor and advowson as aforesaid respectively, and the said advowson being so appendant to the said manor as aforesaid, whilst the said W. M. was so seised, and whilst the advowson was so appendant to the said manor, to wit, on, &c. in, &c. at, &c. by a certain indenture of bargain and sale then and there made between the said W. M. and Jane his wife, (by their names, &c.) of the one part, and the said earl, (by his name, &c.) of the other part, which said last-mentioned indenture is now in the possession of the said Ann, so that the said earl cannot bring the same into court here, he the said W. M. for the considerations therein mentioned, bargained and sold to the said earl the said manor, together with the aforesaid advowson of the rectory aforesaid so being appendant thereto as aforesaid, and all other the appurtenances thereto belonging, to have and to hold the same unto the said earl from the day of the

## QUARE IMPEDIT—REPLICATIONS—

date of the said indenture until the full end and term of one whole year from thence next ensuing and fully to be complete and ended; as by the said last-mentioned indenture more fully appears; by virtue whereof the said earl became and was possessed of the said manor and the advowson, with the appurtenances, for the said last-mentioned term; and being so possessed thereof, and the reversion thereof belonging to the said W. M. as aforesaid, he the said W. M. afterwards, to wit, on, &c. by a certain other indenture then and there made between the said W. M. and Jane his wife (by, &c.) of the one part, and the said earl (by, &c.) of the other part (which said, &c. as before), granted and released to the said earl, his heirs, and assigns, for ever, the said reversion of the said manor and advowson, with the appurtenances, to have, &c. the same unto the said earl, his heirs, and assigns, as by the last-mentioned indenture more fully appears; by virtue whereof, and by force of the statute made for transferring uses into possession, he the said earl then and there became and was, and from thenceforth hitherto hath been, and still is seised in his demesne as of fee of and in the said manor, and as of fee and of right of and in the said advowson so being appendant thereto as aforesaid, with the appurtenances, for which reason he the said earl prevented, and at present hinders the said Ann from presenting a fit person to the said church; and this, &c.; wherefore, &c. if, &c.; and he also thereupon prays a writ to the bishop, &c.

GILES ROOKE.

Replication to  
bishop's plea.

And the said Ann, as to the said plea of the said bishop (inasmuch as he hath not nor claimeth to have any thing in the said church, or in the advowson thereof, except the admission, institution, and induction of parsons to the said church, and what other rights belong to an ordinary, as ordinary of that place), prays judgment against the said bishop, and a writ to the said bishop, &c.; therefore it is considered that the said Ann recover against the said bishop her presentation to the said church, and that she have a writ to the said bishop, that notwithstanding his disclaimer, he admit a fit person to the said church on the presentation of the said A., and the said bishop is not amerced, because he hath excused himself of any particular disturbance, but let execution thereof be stayed until the said plea between the said Ann and the said earl be determined, &c.:

To plea of  
pleado. pation.

And the said Ann, as to the plea of the said earl by him above pleaded in bar, says, that by reason of any thing therein alleged she the said Ann ought not to be barred from having and maintaining her aforesaid action against the said earl; because he as before says, that the said sir J. D. deceased, in his lifetime, and before the presentation of the said G. G. to the church aforesaid by the said sir J. G. in the said declaration of the said Ann mentioned, was seised of the said manor of K. with its appurtenances, to which manor the advowson of the said rectory then belonged in his demesne as of fee, and being so seised of the said manor, with the advowson appendant thereto, until the said sir

J. D.

J. D. bargained and sold the said advowson to the said T. M. his heirs, and assigns for ever, in manner and form as the said Ann hath in her said declaration above alledged; without this, that the said sir J. D. bargained and sold the said manor, with the appurtenances, and granted or released the reversion thereof to the said J. W. in manner and form as the said earl hath in his said plea above alledged; and this, &c.; wherefore inasmuch as the said earl hath above acknowledged that he hath hindered, and still doth hinder the said Ann from presenting to the said church, the said Ann prays judgment and her damages by reason of the said hindrance, together with a writ to the bishop, to be adjudged, &c.

C. RUNNINGTON.

And as to the said plea of the said Ann by her above pleaded by way of reply to the said plea of the said earl by him above pleaded in bar, he the said earl says (*actio non*); because he says as before, that the said sir J. D. bargained and sold the said manor, with the appurtenances, and granted and released the reversion thereof to the said J. W. in manner and form as the said earl hath above in his said plea alledged; without this, that the said sir J. D. being so seised of the said manor with the said advowson appendant thereto as aforesaid, remained and continued so seised of the said manor with the advowson appendant thereto until the said J. D. bargained and sold the said advowson to the said T. M. his heirs, and assigns for ever, as the said Ann hath in her said declaration above alledged; and this, &c.; wherefore, &c. if, &c.; and that he may have a writ to the bishop, &c.

GILES ROOKE.

And the said earl says nothing in bar or preclusion of the said action in bar or preclusion of the said plea of the said Ann by her above by way of reply pleaded to the plea of the said earl by him above pleaded in bar, but departs in contempt of the court, whereby the said Ann remains therein undefended against the said earl; therefore it is considered that the said Ann do recover against the said earl her presentation to the rectory aforesaid, and that she have a writ to the bishop of Carlisle, the ordinary of the said rectory, that he notwithstanding his disclaimer or the claim of the said earl do on the presentation of the said Ann admit a fit person to the rectory aforesaid, &c.; and the said earl be in mercy, &c.; but because it is unknown whether the said church is still vacant, and whether six months have passed since the death of the said G. G. and what is the value of the said church by the year; therefore it is commanded to the sheriff of the said county of C. that by the oath of twelve good and lawful men of his bailiwick he diligently enquire whether the said church is vacant or not, and if it is not vacant upon whole presentation it is full, and whether the space of six months has elapsed since the death of the said G. G. and what is the value of the said church by the year according to the true value thereof, and that the inquisition that he shall therefore

Rejoinder.

Traverse that sir J. D. continued seised of manor till, &c.

Judgment by *nil dicit* against defendant.

Writ to the bishop.

Writ of enquiry of four usual points, and *asset executio* as to the bishop.

## QUARE IMPEDIT—.

therefore take, he make appear under his seal and the seals of those by whose oath he shall make such inquisition to the justices of our lord the king at Westminster, on the motrow of All Souls now next following, and that he have there the writ of our said lord the king to him in that behalf to be directed, and in the mean time let the execution of the writ to the bishop cease.

(a) Writ of error in quare impedit following. YORKSHIRE to wit: Our lord the king hath commanded his trusty and well beloved sir John Willes, knight, his chief justice of the bench by his close writ in these words: George the Second, by the grace of God, of Great Britain, France and Ireland, king, defender of the faith, &c. to his trusty and well-beloved sir John Willes, knight, his chief justice of the bench, greeting: Forasmuch as in the record and process, and also in giving of judgment in a plaint which was in court before you and your associates, our judges of the bench, between us and Thomas, archbishop of York, Charles Hayes, esq. and George Barber, clerk; for that the said Thomas, late archbishop of York, now archbishop of Canterbury, Charles and George hinder us to present a fit person to the church of Ryther, otherwise Ryder, which is void and in our gift, as it is said manifest error hath intervened to the great damage of us, whereof we complain; we, willing that the said error (if any be) be duly amended and full and speedy justice done to the said parties in this behalf, do command you that if judgment be given thereupon then you send to us distinctly and plainly under your seal the record and process of the said plaint, with all things touching the same, so that we may have them from the day of Saint Michael in three weeks wherefoever we shall then be in England, that inspecting the record and process aforesaid we may cause further to be done thereupon for amending the said error, as of right and according to the law and custom of England shall be meet to be done. Witness, Thomas, archbishop of Canterbury and other guardians and justices of the kingdom at Westminster, the twenty-sixth of June, in the twenty-fourth year of our reign. KING.

The answer of sir John Willes, knight, chief justice within-named, the record and process of the plaint within-mentioned, with all things touching the same, I send before our lord the king, wheretoever, &c. at the day within contained in a certain record to this writ annexed, as I am within commanded.

JOHN WILLES.

Pleas inrolled at Westminster before sir John Willes, knight, and his brethren, justices of his majesty's court of common bench of Hilary term, in the twenty-first year of the reign of our sovereign lord George the Second, by the grace of God, of Great Britain, France and Ireland, king, defender of the faith, &c. Roll. 772, 3, 4, 5, 6, 7, 8.

(a) See Error, proceedings, ante.

• YORKSHIRE

# DECLARATION BY ATTORNEY GENERAL.

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THE ATTORNEY GENERAL  
against

THE ARCHBISHOP OF YORK,

CHARLES HAYES, AND GEORGE BARBER.

YORKSHIRE  
to wit: [The  
declaration sets  
forth that John

Declaration in  
quasi impedit by  
attorney gene-  
ral.

Robinson was seised of the manor of Ryder in the county of York, to which the advowson of the said church was appendant in his demesne as of fee, and that in Trinity term, sixteenth Charles the First, a fine was levied between John Searle and others, plaintiffs, and the said John Robinson and Rachael his wife, defendants of the said manor and appurtenances.] Be it remembered, that heretofore, to wit, in the term of Saint Michael, in the eighteenth year of the reign of his present majesty king George the Second, Rolls 1095, 1096, 1097, 1098, 1099, 1100, and 1101, it is thus contained: Yorkshire to-wit, Thomas, archbishop of York, Charles Hayes, esq. and George Barber, clerk, were summoned to answer to the lord the king in a plea that they permit him to present a fit person to the church of Ryther, alias Ryder, which is void and in his gift, &c.: And whereupon the said lord the king, by sir Dudley Ryder, knight, attorney general of the said lord the king, who for our said lord the king prosecutes, says, that John Robinson, esq. was seised of the manor of Ryther, alias Ryder, &c. with the appurtenances in the county of York aforesaid, to which the advowson of the said church was appendant in his demesne as of fee, and being so seised thereof in the term of the Holy Trinity in the sixteenth year of the reign of the late king Charles the First of England, &c. a fine was levied in due form of law in the court of the same king of the bench here at Westminster, in the county of Middlesex, before Edward Lyttleton, Francis Crawley, Edward Reeve, and Robert Forster, justices and other faithful subjects of the said late king then there present, between John Searle, esq. Gervase Hammond, esq. Richard Robinson, esq. and Randal Butcoe, gentleman, plaintiffs, and the said John Robinson and Rachael his wife, defendants of the said manor, with the appurtenances, to which, &c. by the names of the manor of Ryther, otherwise, &c. with the appurtenances, and twelve messuages, twelve cottages, three barns, one windmill, one dove-house, one garden, three orchards, eight hundred acres of land, one hundred and eighty acres of meadow, two hundred acres of pasture, two hundred acres of wood, and five hundred acres of furze and heath with the appurtenances in Ryther, alias, &c. and Stockbridge field, and also of the free fishery in the water of Wharfe, whereupon a plea of covenant was summoned between them in the same court, to wit, that the said John Robinson and Rachael had acknowledged the said manor, tenements, and fishery, with the appurtenances, to be the right of the said John Searle, as those which the said John, Gervase, Richard, and Randal had of the gift of the said John Robinson and Rachael, and those they had renuned and quit claimed from the said John Robinson and Rachael, and the heirs of the said John Searle, Gervase, Richard, and Randal, and the heirs of the said John Searle for ever: And moreover the said John Robinson and Rachael

## QUARE IMPEDIT—

Rachael had granted for themselves and the heirs of the said John Robinson, that they would warrant to the said John Searle, Ger- vaise, Richard, and Randal, and to the heirs of the said John Searle, the said manor, tenements, and fishery, with the appur- tenances, against ill men for ever, as by the said fine in the court of our lord the piecent king of the bench here, to wit, at West- minster aforesaid remaining on record more fully appears, which said fine in form aforesaid levied and had was as to the said minor with the appurtenances, to which, &c. had and levied to the use of the said John Robinson, for and during the term of his natural life without impeachment of waste, and from and after his decease to the use of John Robinson, son and then heir apparent of the said John Robinson the cognizor, and Rachael his wife, and the heir male of the body of the said John Robinson, the son law- fully begotten or to be begotten, and for default of such issue to the use of William Robinson, second son of the said John Robins- on the cognizor, and Rachael, and the heirs male of the body of the said William, lawfully begotten or to be begotten, and for de- fault of such issue to the use of the right heirs of the said John Robinson the cognizor for ever, to wit, at Ryther, alias Ryder aforesaid, by virtue of which fine, and by the force of the statute for transferring of uses into possession, the said John Robinson the cognizor was seised of the said manor, with the appurtenances, to which, &c. in his demise as of freehold for the term of his natural life, the remainder thereof after the death of the fine John Robinson belonging to the said John Robinson, his son, and the heirs male of his body, lawfully begotten or to be be- gotten, the further remainder thereof in form aforesaid belong- ing.

And the said John Robinson the cognizor being so seised of the said manor, with the appurtenances, to which, &c. and the further remainder thereof belonging as aforesaid, he the said John Ro- binson the cognizor at every rds, to wit, at Ryther, alias Ryder aforesaid, died seised of such his last-mentioned estate therein, after whose decease the said J. Robinson his son entered into the said manor, with the appurtenances, to which is in his said re- mainder thereof, and was seised thereof in his demise as of fee tail, to wit, to him and the heirs male of his body lawfully be- gotten or to be begotten the further remainder in form aforesaid belonging; and the said John Robinson being to seised another fine was levied in the court of the bench at Westminster aforesaid in the term of Saint Michael, in the year of Our Lord 1658, before Oliver St. John, and Edward Atkins, justices, and others then there present, between William Robinson, gentleman, and Tho- mas Fairfax, gentleman, plaintiffs, and the said John Robinson the son, and Margaret his wife, Francis Baynton, baronet, and Richard Robinson, esquire, defendants of the said manor, with the appurtenances, to which, &c. by the names of the manor of Ryther, alias Ryder, with the appurtenances, and nine messuages, six cottages, three dove-houses, nine gardens, nine orchards, six hundred and thirty acres of land, one hundred acres of meadow, seven

to the use of the said John Robinson for his said waste, remainder to John Robinson his son in tail, remainder to William Robinson the said son in tail male; remainder to the right heirs of John Robinson the cognizor.

That John Ro- binson the cog- nizor died, and John Robinson the son entered and was seised.

# DECLARATION BY ATTORNEY GENERAL.

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even hundred acres of pasture, with the appurtenances, in Ryther, alias Ryder Hill, whereupon a plea of covenant was summoned between them in the same court, to wit, that the same John and Margaret, Francis and Richard, had acknowledged the manor and tenements aforesaid, with the appurtenances, to be the right of the said William, as those which the said William and Thomas had of the gift of the same John and Margaret, Francis and Richard, and those they had remised and quit claimed from the said John and Margaret, Francis and Richard and their heirs, to the said William and Thomas, and the heirs of the said William for ever. And moreover the same John and Margaret, Francis and Richard had granted for themselves and the heirs of the said John, that they would warrant to the said William and Thomas, and the heirs of the said William, the said manor and tenements, with the appurtenances, against them the said John and Margaret, Francis and Richard, and the heirs of the same John for ever, which last-mentioned fine in form aforesaid levied and had was as to the said manor, with the appurtenances, to which &c. levied and had to the use of the said John Robinson for and during the term of his natural life without impeachment of waste, and from and immediately after his decease, then to the use of the said Margaret for her natural life, and immediately after the death of the said Margaret, then to the use of John Robinson the younger, eldest son of the said John Robinson the said last-mentioned cognizor, on the body of the said Margaret begotten of the heirs male of the body of the said John Robinson, the son of the said John Robinson the said last-named cognizor lawfully begotten or to be begotten, and for default of such issue to the use of Charles Robinson, second son of the said John Robinson the said last-named cognizor, upon the body of the said Margaret lawfully begotten, and the heirs male of the body of the same Charles lawfully begotten or to be forgotten, and for default of such issue to the use of every other son of the said John Robinson the last named cognizor, upon the body of the said Margaret lawfully begotten or to be begotten successively according to their several seniorities, and of the heirs male of the body of every such other son successively, and for default of such issue to the use of the said Francis Boynton and Richard Robinson, and the survivor of them, and the executors, administrators, and assigns of such survivor for the term of sixty years, to commence immediately after the decease of the said John Robinson the last-named cognizor, and Margaret, without issue male of the said John upon the body of the said Margaret begotten, and after the determination of the said term, then to the use of the right heirs of the said John Robinson the last-named cognizor, to wit, at Ryther, alias, &c. aforesaid, by virtue of which last-mentioned fine, and by force of the statute for transferring uses into possession, the said John Robinson, the said last-named cognizor, was seised of the said manor, with the appurtenances, to which, &c. in his demesne as of freehold for the term of his natural life, the remainder thereof to the said Mar-

*A fine sur cognissance come ce que l'ad de son droit. This is the best kind of fine and is said to be a feoffment of record, the livery thus acknowledged in court being equivalent to an actual livery.*

*To the use of the said John Robinson for life.*

*Remainder to the said Margaret for her whole life.*

*Remainder to John Robinson the younger son in tail male. Remainder to Charles Robinson son his second son in tail male.*

*Remainder to every other son in tail male.*

*Remainder to Francis Boynton and Richard Robinson for sixty years, to commence on the death of John Robinson the last cognizor.*

*Remainder to the right heirs of John Robinson the last cognizor.*

**Presentment.**

That John Robinson the last cognizor presented Robert Morret his clerk to the said church being void, who was thereon instituted and inducted.

That the said Robinson the last cognizor, on fourth March, 21. Car. 2. by indenture between him on the one part, and Sir Michael Warton on the other, (afterwards inrolled) bargained and sold the said advowson to the said Sir Michael.

To hold to him and his heirs forever.

By reason whereof the said Sir Michael was seized of the said advowson as of one in gross in his demesne as of freehold for the life of the said J. Robinson, the remainder thereof being in form aforesaid.

And the reversion thereof belonging to said Sir Michael and his heirs in Hilary Term, twenty first Charles the Second, another fine was levied between the said Sir Michael, plaintiff, and the said J. Robinson the last cognizor, defendant of the said advowson.

garet for the term of her natural life, and remainder thereof to the said John Robinson her son, and the heirs male of his body issuing, the further remainder thereof in form aforesaid belonging and being so seized of the said manor, with the appurtenances, to which, &c. presented to the church being vacant Robert Morret, his clerk, who upon that presentation of him the said John Robinson, the said last-named cognizor, was admitted, instituted, and inducted into the same in the time of peace in the time of the late lord Charles the Second, late king of England, &c. and the said John Robinson the said last-named cognizor being so seized of the said manor, with the appurtenances, to which, &c.: And the said church being full and provided for of the said Robert Morret, parson and incumbent thereof, he the said John Robinson afterwards, to wit, on the fourth of March, in the twenty-first year of the reign of the said late king Charles the Second at Ryther, alias &c. aforesaid, by an indenture then and there made between him the same John Robinson, by the name of John Robinson of Ryther, alias, &c. in the county of York, esquire, on the one part, and Michael Warton of Beverley in the county aforesaid, knight, on the other part, and afterwards and within six months then next following, in the court of chancery of the said late king Charles the Second, the said chancery then being at Westminster aforesaid in due manner according to the form of the statute inrolled of record, the one part of which said indenture sealed with the seal of the same John Robinson, the said attorney general brings here into court, the date whereof is the same day and year, for and in consideration of the sum of one hundred pounds of current English money to him in hand paid by the said Sir Michael, granted, bargained, and sold to the said Sir Michael, his heirs and assigns, the said advowson by the name of all that advowson, patronage, and right of patronage, and perpetual disposition of the parish church of Ryther, alias Ryder, in the said county of York, to have and to hold to the said Sir Michael, his heirs and assigns forever; by virtue of which bargain and sale and inrollment thereof, and also by force of the said statute for transferring of uses into possession, the said Sir Michael was seized of the said advowson as in one in gross by itself in his demesne as of freehold for the natural life of the said John Robinson the said last-named cognizor, the remainder thereof belonging to the said Margaret for her natural life, with remainder thereof to the said John Robinson her said son, and the heirs male of his body, the further remainder thereof in form aforesaid belonging, and the reversion thereof to the said Sir Michael and his heirs belonging; and the said Sir Michael being so seized thereof, and the said church being full and provided for as aforesaid, to wit, in the octaves of Saint Hilary, in the twenty-first year of the said late king Charles the Second of England, &c.

fine was levied in due form of law in the court of the same king of the bench here at Westminster aforesaid, before John Vaughan, Thomas Terrel, John Archer, and William Wilde, justices and other faithful subjects of the same king then there present, between the said sir Michael Warton, knight, plaintiff, and the said John Robinson the son of the first-named John Robinson, by the name of John Robinson, esq. *defendant* (it ought to be *deforciant* in levying a fine) of the said advowson amongst other things by the name of the rectory of Ryther, alias Ryder, with the appurtenances, and of the advowson of the church of Ryther alias Ryder, whereupon a plea of covenant was summoned between them in the same court, to wit, that the same John had acknowledged the said rectory, with the appurtenances, and the said advowson of the right of him the said Michael, as that which the same Michael had of the gift of the said John; and that he had remised and quit claimed from himself and his heirs to the said Michael and his heirs for ever: And moreover the same John had granted for himself and his heirs, that they would warrant to the said Michael and his heirs the said rectory, with the appurtenances, and the advowson aforesaid, against the said John and his heirs for ever, and for that acknowledgment, remission, quit claim, warranty, fine, and concord, the same Michael gave to the said John one hundred pounds sterling, which said fine in form aforesaid levied was afterwards in the same court according to the form of the statute in the parliament of the late king Henry the Seventh of England, after the conquest, at Westminster aforesaid, in the fourth year of his reign there made and provided, publicly and solemnly read and proclaimed according to the form of the same in manner following, to wit: The first proclamation was made on the twelfth of February in the said term of St. Hilary, in the said twenty-first year of the same king Charles the Second of England; the second proclamation was made on the ninth day of May in Easter term, in the twenty-second year of the king aforesaid; the third proclamation was made on the eighth day of June in the term of the Holy Trinity, in the said twenty-second year of the king aforesaid; the fourth proclamation was made on the twenty-seventh day of October in the term of Saint Michael, in the said twenty-second year of the king aforesaid, as by the same fine and the proclamations, upon the same fine made remaining in the court here of record, more fully appears: And the said attorney general further saith, that the said sir Michael afterwards, to wit, on the twenty-third of August, in the twenty-second year of the reign of the same king, by a certain indenture then and there made between the said sir Michael, by the name of sir Michael Warton of Beverley in the county of York, knight, of the one part, and Michael Warton of the same town and country aforesaid, esquire, of the other part, and sealed with the seal of the said sir Michael, for a certain sum of current English money in hand paid by the said advowson to the said Michael Warton, to hold to him his heirs and assigns for ever.

*Demandant and tenant are the terms made use of in suffering a recovery, the parties in suffering a recovery being demandant, tenant and vouchee, but in levying a fine plaintiff and defendant.*

*That on the twenty-third of August, 22. Car. 2. sir Michael, by an indenture made between him on the one part, and Michael Warton on the other, granted*

# QUARE IMPEDIT—

But that the said indenture could not be brought into court by reason it was casually lost and not then found, but the substance thereof is contained in the inrollment next mentioned.

That on the tenth of October, 22. Car. 2. the said sir Michael died, leaving the said Michael his heir without making conveyance or devise of the said advowson.

said sir Michael Warton, granted unto the said Michael Warton the said advowson, to have and to hold the said advowson unto the said Michael Warton, his heirs and assigns for ever: And the same attorney general saith, that he cannot bring the same indenture into court here sealed with the seal of the said sir Michael, by reason that the same indenture was casually lost at Ryther, alias, &c. aforesaid, and as yet is not found; but the said attorney general saith, that all the substance of the said indenture is contained in the record of the inrollment next hereinafter mentioned, as hereinafter is expressed, and saith, that after the making of the said indenture before-mentioned to be lost, to wit, on the tenth of October in the same twenty-second year of the reign of the said king Charles the Second, at Ryther, alias, &c. aforesaid, the said sir Michael died, leaving the said Michael his son and heir, without making any other conveyance or any devise of or relating to the said advowson; and the said Michael Warton being seised of the said advowson as of a reversion of one in gross by itself as of fee and right, afterwards, to wit, on the nineteenth of November, in the same twenty-third year of the reign of the said late king Charles the Second, at Ryther, alias, &c. by indenture then and there made between him the said late king Charles the Second of the one part, and the said Michael Warton of the other part, and afterwards on the sixteenth of December in the same year, and within six months then next following in due manner of record according to the form of the statute inrolled in the court of chancery of him the same late king, the said chancery then being at Westminster aforesaid, and sealed with the seal of the said Michael, which same indenture the said attorney general now brings into court, the date whereof is the said nineteenth of November, reciting therein the substance of the said indenture before-mentioned to be lost as followeth, to wit, that by indenture bearing date the fourth day of March, in the twenty-first year of his said majesty's reign, made between John Robinson of Ryther, alias Ryder, in the county of York, esquire, on the one part, and sir Michael Warton of Beverley, in the county aforesaid, knight, of the other part; the said John Robinson in consideration of the sum of one hundred pounds of current English money to him in hand paid or mentioned to be paid by the said sir Michael Warton before the enfealing and delivery of the same indenture, did by the same indenture grant, bargain, and sell unto the said sir Michael Warton, his heirs and assigns, all that advowson, patronage, right of patronage, and perpetual disposition of the parish church of Ryther, alias Ryder, in the said county of York, with all its rights, members, and appurtenances to the same belonging, or in anywise appertaining, and all the estate, right, title, interest, claim, and demand whatsoever of him the said John Robinson of, in, and to the premises, and every or any part and parcel thereof; and the reversion and reversions, remainder and remainders, together with the revenues and profits of the premises, and every part and parcel thereof, to have and to hold the said advowson, patronage, and perpetual

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perpetual disposition of the parish church of Ryder, alias Ryther, therein before mentioned and intended to be thereby granted, with their and every of its rights, members, and appurtenances, unto the said sir Michael Warton, his heirs and assigns, to the only proper use and behalf of the said sir Michael Warton, his heirs and assigns for ever, as by the said indenture amongst other things therein contained, relation being thereto had more fully and at large it did and might appear; and that by an indenture bearing date the twenty-third of August, in the twenty-second year of his said majesty's reign, made between sir Michael Warton of Beverley, in the county of York, knight, of the one part, and Michael Warton of the same town and county aforesaid, esquire, of the other part; the said sir Michael Warton for and in consideration of a certain sum of current English money to him in hand paid before the sealing and delivery thereof, did by the same indenture grant, bargain, and sell unto the said sir Michael Warton, his heirs and assigns, all that advowson, patronage, right of patronage, and perpetual disposition of the parish church of Ryder, alias Ryther, in the said county of York, with all its rights, members, and appurtenances to the same belonging, or in any other ways appertaining, and all the estate, right, title, interest, claim, and demand whatsoever of him the said sir Michael Warton of, in, and to the premises, and of every or any part or parcel thereof, and the reversion and reversions, remainder and remainders, together with the revenue and profits of the same premises, and of every or any part or parcel thereof, to have and to hold the said advowson, patronage, right of patronage, and perpetual disposition of the parish church of Ryder, alias, &c. therein before mentioned and intended to be thereby granted, with their and every of its rights, members, and appurtenances, unto the said Michael Warton. his heirs and assigns for ever, as by the said indenture amongst other things therein contained, relation being thereto had more fully and at large it did and might appear, &c. and that for and in consideration of a competent sum of money by him the said late king Charles the Second, to him the said Michael Warton in hand paid, granted, bargained, and sold unto him the said late king Charles the Second, the advowson of the said church, to have and to hold unto him the said late king Charles the Second, his heirs and successors, by virtue of which bargain and sale, and of the same inrollment, and also by force of the said statute made for transferring uses into possession, the late king Charles the Second was seised of the reversion of the said advowson as of one in gross, by itself as of fee and right, in right of his crown of England; and the said late king Charles the Second being so thereof seised, the said William Robinson afterwards, to wit, on the tenth of November, in the twenty-eighth year of the reign of the same king, at Ryder, alias Ryther, &c. aforesaid, died without any issue male of his body, after which, to wit, on the twentieth of February 1678, the said John Robinson, husband of the said Margaret,

States another  
fine levied to  
king Charles the  
Second.

## QUARE IMPEDIT.

garet, died at Ryder, alias, &c. aforesaid; and afterwards, to wit, on the fourth of August 1680, at Ryder, alias, &c. aforesaid, the said John Robinson, son of the same John Robinson and Margaret, died with issue male of his body; and afterwards the said late king Charles the Second, at Ryder, alias, &c. aforesaid, died seised of the said reversion of the said advowson as of one in gross, as of fee and right in right of his crown of England without issue of his body, after whose death his said reversion of the said advowson as of one in gross by itself descended to James the Second, late king of England, as brother and heir of the said late king Charles the Second, by reason whereof the said late king James the Second was seised of the said reversion of the said advowson as of a reversion of one in gross of itself as of fee and right in right of his crown of England; and the said late king James the Second being so seised thereof abdicated the government and dismissed himself from the government of the kingdom of England, and crown and dignity of England and departed, so that the crown of England became vacant; and afterwards, to wit, on the thirteenth of February 1688, the lord William, and lady Mary, lawfully, rightfully, in due manner, and of right, became and were king and queen of England, and by reason whereof the said king William and queen Mary were seised of the said reversion of the said advowson as of a reversion of one in gross by itself as of fee and right, in right of their crown of England; and the same king and queen being so seised thereof, the same queen afterwards at Ryder, alias, &c. aforesaid, died without heir of her body, after whose death the said late king William was seised of the said reversion of the said advowson as of a reversion of one in gross, by itself as of fee and right in right of his crown of England, and afterwards, to wit, on the twenty-fifth of March 1700, at Ryder, alias, &c. aforesaid, the said Charles Robinson died, leaving Charles Robinson, gentleman, his son and heir, and no other issue male of his body; and afterwards, to wit, on the first of May 1700, at Ryder, alias, &c. aforesaid, the said Margaret died; and afterwards on the tenth of May in the said year, at, &c. the said Charles Robinson, gentleman, died without any issue male of his body, upon whose death all issue male of the bodies of the said John Robinson the said last-mentioned cognizor, and Margaret his wife, totally failed, to wit, at Ryder, alias, &c. aforesaid; and the said late king William being then seised of the said advowson as of one in gross, by itself as of fee and right, in right of his crown of England, the said church became void by the death of the said Robert Morrett, and being so void, the late king William being so seised of the said advowson in form aforesaid, the said late king William afterwards, to wit, at Ryder, alias, &c. aforesaid, the said church remaining void, died seised of such his said estate in the said advowson without heirs of his body, after whose death the lady Anne, lawfully and rightfully, in due manner, and of right became and was queen of England, &c. and was seised of the said

advowson of the said church as of one in gross, by itself as of fee and right in right of her crown of England; and the said church so remaining void by the death of the said Robert Morrett, it belonged to her the said lady, late Queen Anne, to present a fit person to the said church so void, and one John Cole usurping upon the said lady queen Anne presented to the said church so void William Elleley, clerk, who upon the presentation of the said John Cole, was admitted, instituted, and inducted into the same; and the said late lady queen Anne being so seised of the said advowson as of fee and right, in right of her crown of Great Britain, died without heir of her body, after whose death the late lord king George the First lawfully, rightfully, and in due manner, and of right became and was king of Great Britain, &c. and was seised of the said advowson as of one in gross, by itself as of fee and right, in right of his crown of Great Britain; and the said late king George the First being so seised of the said advowson, afterwards died seised of such his estate therein, upon whose death the lord king George the Second lawfully and rightfully, in due manner, and of right became and is now king of Great Britain, and became seised of the said advowson as of one in gross, by itself as of fee and right, in right of his crown of Great Britain, and yet is seised thereof, and being so seised thereof, the said church became void by the death of the said William Elleley, and yet is void by reason whereof it belongs to the said lord the now king to present a fit person to the said church so void: And *thy the said archbishop, Charles Hayes, and George Barber, unjustly hinder him the said lord the now king from presenting a fit person to the said church,* whereupon the said attorney general says, that the said lord the now king is prejudiced, and hath damage to the value of twenty pounds, and this he is ready to verify: And the said Thomas, archbishop of York, comes by Randal Wilmot, his attorney, and defends the wrong and injury when, &c. and prays leave thereupon to imparl here until within eight days of Saint Hilary, and the said Charles Hayes and George Barber, by James Chamberlayne, their attorney, come and defend the wrong and injury, when, &c. and pray leave thereupon to imparl here until on the same day, and as well the said Thomas, archbishop of York, as the said Charles Hayes and George Barber have, &c.; and the same day is given to sir Dudley Rider, knight, attorney general of the said lord the king, who, &c. here, &c. at which day come here as well the said sir Dudley Rider, knight, attorney general of the said lord the king, who, &c. as the foresaid Thomas, archbishop of York, and his said attorney, and the said Charles Hayes and George Barber, by their said attorney, and upon this as well as the said Thomas, archbishop of York, by his attorney aforesaid, prays further leave thereupon to imparl here until from the day of Easter in fifteen days, as the said Charles Hayes and George Barber, by their said attorney, pray further leave thereupon to imparl here until on the same day, and as well the said Thomas, archbishop of York, as the said Charles Hayes and George Barber have it, &c., and the same day

Usurpation.

The plaintiff must shew disturbance before the action brought, Hob. 199.

Imparlances.

## QUARE IMPEDIT.—PLEA—

day is given to the said sir Dudley Rider, knight, attorney general of the said lord the king, who, &c. here, &c. (divers other imparlances) at which day come here as well the said sir Dudley Rider, knight, attorney general of the said lord the king, who, &c. as the said Thomas, archbishop of York by his said attorney, and the said Charles Hayes and George Barber by their said attorney; and upon this the said Thomas, archbishop of York, by his said attorney, prays further leave thereupon to impart here until from the day of Easter in fifteen days, and he hath it, &c.; and the same day is given to the said sir Dudley Rider, knight, attorney general of our said lord the king, who in this behalf sues for the said lord the king, prays that the said Charles Hayes and George Barber do answer to the said declaration: And the said Charles Hayes and G. Barber as before, by James Chamberlayne, their attorney, come and defend the wrong and injury when, &c.; and the said Charles Hayes says, that the said lord the king ought not to have his aforesaid action against him, because he says, that true it is, that the said John Robinson, in his said declaration first mentioned, was seised of the said manor of Ryder, alias, &c. with the appurtenances, to which, &c. in his demesne as of fee, and being so seised thereof in the said term of the Holy Trinity in the sixteenth year of the reign of his said majesty king Charles the First, such a fine was levied in due form of law in the said court of the said late king of the bench at Westminster in the manner aforesaid, with the appurtenances, to which, &c.; and that the same fine was as to the said manor, with the appurtenances, to which, &c. had and levied to the use of the said John Robinson, for and during the term of his natural life without impeachment of waste, and from and after his decease, to the use of the said John Robinson, son and heir apparent of the said John Robinson the cognizor, and the said Rachael his wife, and the heirs male of the body of the said John Robinson the son lawfully begotten or to be begotten, and for default of such issue, to the use of William Robinson, the second son of the said John Robinson the cognizor and Rachael, and the heirs male of the body of the said William Robinson lawfully begotten or to be begotten, and for default of such issue, to the use of the right heirs of the said John Robinson the cognizor for ever; and that by virtue of the said fine, and by force of the statute for transferring of uses into possession, the said John Robinson the cognizor was seised of the said manor, with the appurtenances, to which, &c. in his demesne as of freehold for the term of his natural life, remainder thereof after the death of the said John Robinson belonging to the said John Robinson his son and heir, and the heirs male of his body lawfully begotten or to be begotten, the further remainder thereof in form aforesaid belonging: And the said John Robinson the cognizor being seised of the manor aforesaid, with the appurtenances, to which, &c. the further remainder thereof belonging as aforesaid, he the said John Robinson the cognizor died seised of such his last-mentioned estate therein; and that after his decease the said John Robinson his son entered into the aforesaid

## PLEA BY PATRON.

said manor, with the appurtenances, to which, &c. as in his said last remainder thereof, and was seised thereof in his demesne as of fee tail, to wit, to him and the heirs male of his body lawfully begotten or to be begotten the further remainder in form aforesaid belonging; and that the said John Robinson being so seised such other fine was levied in the said court of the bench at Westminster aforesaid, in the term of Saint Michael, in the said year of Our Lord 1658, of the manor aforesaid, with the appurtenances, to which, &c.: And the said attorney general of our said lord the king hath in the said declaration above alledged; but the said Charles Hayes does own that the said last-mentioned fine in form aforesaid levied and had, was as to the said advowson levied and had to the use following, to wit, as to the first and then next presentation of the said church, to the use and behalf of the said John Robinson the last-named cognizor and his assigns, and from and after the said first next presentation, the said advowson to be to the use of Henry Bayles, his heirs and assigns for ever, to wit, at Ryder, alias, &c. aforesaid: And the said Charles Hayes further saith, that after levying the said last-mentioned fine in form aforesaid, the said John Robinson, the last-named cognizor, presented to the said church being vacant the said Robert Morrett, his clerk, who after that presentation was admitted, instituted, and inducted into the same in time of peace, in the time of his said late majesty king Charles the Second, which said presentation was the first and next presentation after levying of the said last-mentioned fine, by virtue of which said last-mentioned fine, and by reason of the premises, and also by force of the statute for transferring of uses into possession, the said Henry Bayles became and was seised of the advowson aforesaid as in one of gross by itself as of fee and right; and the said Henry being so seised of the said advowson in form aforesaid, and the church aforesaid being so full and provided with the said Robert Morrett, incumbent thereof as aforesaid, the said Henry afterwards, to wit, on the eleventh of July, in the thirty-fifth year of the reign of the said late king Charles the Second, at Ryder, alias, &c. aforesaid, by a certain indenture then and there made between him the said Henry Bayles, by the name of Henry Bayles of Solby, in the county of York, gentleman, of the one part, and the said John Cole in the said declaration mentioned, by the name of John Cole, citizen and plumber, of London, of the other part, the one part of which said indenture sealed with the seal of the said Henry Bayles, the said Charles Hayes bringeth here into court, the date whereof is the same day and year last aforesaid, granted to the said John Cole the advowson aforesaid, to have and to hold to the said John Cole, his executors, administrators, and assigns, from the day next before the date of the same indenture unto the full end and term of one thousand years from thence ensuing, and fully to be complete and ended as by the said indenture (amongst other things) more fully appears; by virtue of such said grant, the said John Cole was possessed of the said advowson for the said term of one thousand years so as aforesaid

## QUARE IMPËDIT—

granted to him; and the said John Cole being so possessed thereof, the said church became vacant by the death of the said Robert the then last incumbent thereof, wherefore the said John Cole presented to the said church so being vacant as aforesaid William Elseley, his clerk, who upon the presentation of the said John Cole was admitted, instituted, and inducted in and to the same in the time of peace, in the time of her late majesty Anne, late queen of England, &c.; and the said John Cole being so possessed of the advowson aforesaid, and the said church being full of the said William Elseley, the incumbent thereof as aforesaid, the said John Cole died so possessed thereof, to wit, at Ryther, &c. aforesaid, after whose death the said church became vacant by the death of the said William Elseley the last incumbent thereof, and is still vacant as in the declaration is above alledged: And the said Charles Hayes further says, that after the death of William Elseley, and during the vacancy of the said church, by the death of the said William Elseley the last incumbent thereof, to wit, on the tenth of October 1743, administration, with the will annexed of the goods and chattels which were of the said John Cole deceased, at the time of his death was in due form committed to the said Charles Hayes by William Ward, doctor of laws, commissary and keeper general of the exchequer and prerogative court of the said Thomas, archbishop of York, primate of England, and metropolitan, to wit, at Ryder, alias, &c. aforesaid, and by reason thereof it belongeth to the said Charles Hayes to present a fit person to the said church so being vacant as aforesaid, without this, that the last-mentioned fine in form aforesaid levied and had was as to the said manor, with the appurtenances, to which, &c. levied and had, to the use of the said John Robinson for his natural life without impeachment of waste, and from and immediately after his death, then to the use of the said Margaret for her natural life, and immediately after the death of the said Margaret, then to the use of the said John Robinson the younger, eldest son of the said John Robinson the last-named cognizor, or the body of the said Margaret begotten, and the heirs male of the body of the said John Robinson, the son of the said John Robinson the last-named cognizor lawfully to be begotten, and for default of such issue, to the use of Charles Robinson, second son of the said John Robinson the last-named cognizor, upon the body of the said Margaret lawfully begotten, and the heirs male of the body of the same Charles lawfully to be begotten, and for default of such issue, to the use of every other son of the said John Robinson the said last-named cognizor, upon the body of the said Margaret begotten or to be begotten successively according to their several seniorities, and of the heirs male of the body of every such other son successively, and for default of such issue, to the use of the said Francis Robinson and Richard Robinson, and the survivor of them, and the executors, administrators, and assigns of such survivor for the term of sixty years, to commence immediately after the decease of the said John Robinson the said last-named cognizor and Margaret, with-

out

out issue male of the same John upon the body of the said Margaret begotten, and after the determination of the said term, then to the use of the right heirs of the said John Robinson the said last-named cognizor, in manner and form as the said attorney general for the said lord the king in the declaration aforesaid hath above alledged, and this he is ready to verify; wherefore he prays judgment if the said lord the king ought to have the said action against him, &c.; and the said Charles brings here into court the letters of administration aforesaid granted to the said Charles in form aforesaid, the date whereof is the day and year in that behalf aforesaid, &c.; and the said George Barber says, that the said lord the king ought not to have his said action against him, because he saith, that true it is, that the said John Robinson first named in the said declaration was seised of the said manor, with the appurtenances, to which, &c. in his demesne as of fee, and that such fine was levied and had, and that the same was had and levied to the uses in the said declaration for that purpose mentioned, and that the said John Robinson the cognizor died, and that such other fine was levied by the said John Robinson the son, and that the same was levied and had to the uses in the said declaration for that purpose also mentioned; and that the said John Robinson the son presented to the said church so vacant the said Robert Morrett, his clerk, and that the said Robert Morrett upon that presentation was admitted, instituted, and inducted into the same in time of peace, in the time of his said late majesty king Charles the Second, and that the said John Robinson the said last-named cognizor, granted, bargained, and sold to the said sir Michael Watton, his heirs and assigns, the said advowson for ever, in manner and form as the said attorney general of our said lord the king for our said lord the king in that behalf in the said declaration hath above alledged; but the said George Barber further saith, that the said sir Michael Watton being so seised of the said advowson of the said church in gross by itself as of fee and right as aforesaid, and the said church being full and provided for as aforesaid, the said sir Michael afterwards, to wit, on the first of January 1698, at Ryther, alias, &c. aforesaid, made his last will and testament in writing, and thereby gave and devised the said advowson of the church aforesaid to the said George Barber and his heirs for ever, and afterwards, to wit, on the same day and year last mentioned there died so seised of such his estate of and in the said advowson, after whose death the said George Barber became and was seised of the said advowson of the church aforesaid as of one in gross by itself as of fee and right; and the said George Barber being so seised thereof, the said church became void by the death of the said Robert Morrett, and by reason thereof it belonged to the said George Barber to present a fit person to the said church so vacant; but the said John Cole usurping upon the said George Barber, at Ryther, alias, &c. aforesaid, presented to the said church so vacant the said William Elkeley, his clerk, who upon the presentation of the said John Cole was admitted, instituted,

Clerk's plea.

Sir M. W. devised the advowson to defendant.

## TRAVERSE—IMPARLANCES.

and inducted into the same in time of peace, in the time of her said late majesty queen Anne; and the said George Barber being so seised of the advowson aforesaid, the said church became vacant by the death of the said William Elleley the last incumbent thereof, and still is vacant as in the said declaration is above alledged, and by reason thereof it belongeth to the said George Barber to present a fit person to the said church being vacant as aforesaid; without this, that the said sir Michael Warton granted the said advowson of the said church to the said Michael Warton, esquire, in manner and form as the said attorney general hath in declaring above alledged, and this the said George is ready to verify; wherefore he prays judgment if the said lord the king ought to have his aforesaid action against him, &c.

Traverse that  
M. W. granted  
to M. W.  
esquire.

Imparances.

And the said sir Dudley Ryder, knight, attorney general of our said lord the king, who, &c. prays day to imparl to the said several pleas of the said Charles Hayes and George Barber, and it is granted to him, &c.; and thereupon day is given, as well to the said sir Dudley Ryder, knight, attorney general of the said lord the king, who, &c. as to the said Charles Hayes and George Barber here until from the day of Easter in fifteen days, to wit, for the said sir Dudley Ryder, knight, attorney general of the said lord the king, who, &c. to imparl to the said pleas, and then to reply to the said pleas, &c. at which day come here as well the said sir Dudley Rider, knight, attorney general of our said lord the king, who, &c. as the said Thomas, archbishop of York, by his attorney, and the said Charles Hayes and George Barber, by their attorney, and the said Thomas, archbishop of York, by his attorney aforesaid, prays leave thereupon to imparl here until on the morrow of the Holy Trinity, and he hath it, &c.; and the same day is given to the said sir Dudley Ryder, knight, attorney general of the lord the king, who, &c. prays further day to imparl to the said several pleas of the said Charles Hayes and the said George Barber, and it is granted to him, &c.; and thereupon day is given as well to the said sir Dudley Ryder, knight, attorney general of the said lord the king, who, &c. as to the said Charles Hayes and George Barber, here until the morrow of the Holy Trinity, to wit, for the said sir Dudley Ryder, knight, attorney general of the said lord the king, who, &c. to imparl to the said pleas, and then to reply to the said pleas, &c. at which day come here as well the said sir Dudley Ryder, knight, attorney general of the said lord the king, who, &c. as the said Thomas, archbishop of York, by his said attorney, and the said C. Hayes and George Barber, by their said attorney, pray further leave thereupon to imparl here until from the day of Saint Michael in three weeks, and he hath it, &c.; and the same day is given to the said sir Dudley Ryder, knight, attorney general of the said lord the king, who, &c.; and the said sir Dudley, &c. prays further day to imparl to the said several pleas of the said Charles Hayes and George Barber, and it is granted to him, &c.; and thereupon

## PLEA (BY BISHOP)—REPLICATIONS.

thereupon a day is given as well to the said sir Dudley Ryder, knight, attorney general of the said lord the king, who, &c. as to the said Charles Hayes and George Barber, until from the day of Saint Michael in three weeks here, to wit, to the said sir Dudley Ryder, knight, attorney general of the said lord the king, who, &c. to imparl to the said pleas, and then to reply to the said pleas, at which day come here as well the said sir Dudley Ryder, knight, attorney general of the said lord the king, who, &c. as the said Thomas, archbishop of York, by his said attorney, and the said Charles Hayes and George Barber, by their said attorney; and the said Thomas, Archbishop of York, by A. B. his attorney, defends the wrong and injury when, &c. and says, that the aforesaid church is within his diocese of York, and that he hath not any thing, nor claims to have any thing in the said church, nor in the advowson of the said church, save the admission, institution, and displacing of the parson of the said church, and other the matters which belong to, and are incumbent on the ordinary, as ordinary of the same place, and this he is ready to verify; wherefore he prays judgment if the said lord the king, without assigning some special disturbance in the person of him the said archbishop in this behalf, ought to maintain the said action against him.

Bishop's plea, where the ordinary is made party to the writ he cannot present by title, nor can the metropolitan, if other six months pass, for he has no title but where the ordinary might have presented, and loses his opportunity.

And the said lord the king, in that the said archbishop hath not any thing, nor claims to have any thing in the said church, nor in the advowson of the same church, but the admission, institution, and displacing of parsons of the same church, and other the matters which belong to, and are incumbent on the ordinary, as ordinary of that place, prays judgment against him the said archbishop, and a writ to the said archbishop, &c.; therefore it is considered that the said lord the king recover against the said archbishop his presentation to the said church, and that the said lord the king have a writ to the said archbishop, that notwithstanding the disclaimer of him the said archbishop, the said archbishop admit a fit person to the said church upon the presentation of the said lord the king, but let execution thereof cease until the plea between the said lord the king and Charles Hayes and George Barber is determined, &c. (and says nothing of mercy of the said archbishop, i. e. that the said archbishop be not amerced because he excuses himself of the special impediment.)

Replication to a Bishop's plea.  
  
Writ to the bishop.  
  
Cesset executio.

And the said sir Dudley Ryder, knight, attorney general of the lord the king, who for the same lord the king in this behalf further says, that the said lord the king, by any thing by the said Charles Hayes above in pleading alledged, ought not to be precluded from having his said action against the said Charles Hayes, for that the said last-mentioned in form aforesaid levied and had, was as to the said manor, with the appurtenances, to which, &c. levied and had, to such uses as he the said attorney general of the said lord the king hath in his declaring above alledged; and this

Replication to patron's plea.

## REPLICATION TO CLERK'S PLEA.—VENIRE—

this the said attorney general of the said lord the king, who for the said lord the king in this behalf sues, prays may be enquired of by the country.

And the said sir Dudley Ryder, knight, attorney general of the said lord the king, who, &c. says, that the said lord the king ought not to be precluded from having his said action against him the said George Barber, because he saith, that the said sir Michael Warton granted the said advowson of the said church to the said Michael Warton, esquire, in manner and form as the said attorney general of the said lord the king hath in declaring above alleged, and this the said attorney general of the said lord the king, who for the said lord the king in this behalf sues, prays may be enquired of by the country.

Further Impar-  
tices.

And the said Charles Hayes and George Barber severally pray furth r leave thereupon to imparl to the said several replications of the said sir Dudley Ryder, knight, attorney general of the said lord the king, who, &c. and it is granted to them, &c., and thereupon a day is given as well to the said Charles Hayes and George Barber, as to the said sir Dudley Ryder, knight, and the attorney general of the said lord, who, &c. here until in eight days of Saint Hilary, to wit, for them the said Charles Hayes and George Barber severally to imparl to the several replications, and then to rejoin, &c., the same day is given to the said sir Dudley Ryder, knight, attorney general of the said lord the king, who, &c. at which day come here as well the said Charles Hayes and George Barber, as the said sir Dudley Ryder, attorney general of the said lord the king, who, &c., and the said sir Dudley Ryder, knight, attorney general of the said lord the king, who, &c. prays that the said Charles Hayes and George Barber severally do answer to the said several replications of the said sir Dudley Ryder, knight, attorney general of the said lord the king, who, &c., and the said Charles Hayes likewise puts himself upon the country, and the said George Barber likewise puts himself upon the country; therefore to try the several issues above joined, the sheriff is commanded that he cause to come here *in eight days* of the Purification of the Blessed Virgin Mary, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. at which day the jury between the parties aforesaid of the plea aforesaid was respited thereupon, between them here until at this day, to wit, *until from the day of Easter in fifteen days then next following*, unless our lord the king's justices assigned to hold the assizes in the county aforesaid, by form of the statute in that case made and provided, should come before on Monday the seventh day of March last past, at the Castle of York, in the said county; and now at this day come here as well the said sir Dudley Ryder, knight, attorney general of the said lord the king, who for our said lord the king in this behalf sues, as the said Charles Hayes and George Barber, by their attorney aforesaid; and

Issue joined.

Venire.

Respite for de-  
murrer of jurors.

and the aforesaid justices of assize, before whom the jury aforesaid came and sent here record before them had in these words, to wit, afterwards, at the day and place within contained, before *Postea.* sir Thomas Abney, knight, one of his majesty's justices of the court of common pleas, and John Agar, serjeant at law, two of his majestys justices assigned to take the assizes in the within written county of York, according to the statute, &c.; the presence of sir William Lee, knight, lord chief justice of his majesty's court of king's bench, also another of his majesty's justices assigned to take the said assizes not being expected, by virtue of his majesty's writ of *si non omnes*, &c. to the said justices and *si non omnes.* others directed, come as well the within-named sir Dudley Ryder, knight, attorney general of our sovereign lord the king, who for our said lord the king in this behalf prosecutes, as the within-named Charles Hayes and George Barber, clerk, by their attorneys within mentioned, and the names of the jury, of which there is mention within made, being called, certain of them, to wit, George Nelthorpe, Charles Tancred and others, come and are sworn upon that jury, and because the rest of the jurors of the said jury did not appear, therefore some others of the jury-men standing about the court chose for that purpose by the sheriff of the said county, at the request of the said attorney general of our said lord the king, and by the command of the said justices are newly appointed, whose names are added to the within written pannel, and according to the form of the statute in such case made and provided, which said jurors so newly appointed, to wit, S. Smith, W. Seaton, and W. Kelsey being called likewise come, who together with the jurors first impannelled and sworn, being chosen, tried, and sworn to speak the truth of the matters within contained, as to the issue between our sovereign lord the king, and the said Charles Hayes within joined, upon their oath say, that the fine last within mentioned in form within set forth levied and had, was as to the within-mentioned manor of Ryder, alias Ryther, with the appurtenances, to which, &c. levied and had, to such uses as he the said attorney general of the said lord the king hath within in declaring alledged, as the said attorney general of the said lord the king, for our said lord the king, in his within written replication to the plea of the said Charles hath within alledged; and as to the issue between our said lord the king and the said George Barber within likewise joined, the jurors aforesaid upon their oath further say, that the within named sir Michael Warton granted the within mentioned advowson of the within-mentioned church of Ryther, alias, &c. to the within-named Michael Warton, esq. in manner and form as the said attorney general of our said lord the king, for our said lord the king hath in declaring within alledged, as the said attorney general of the said lord the king in his within written replication to the plea of the said George Barber hath within likewise alledged; and because the justices here are willing to advise themselves of and upon the

*Tales d  
stantibus*

Verdict for at-  
torney genera  
against Charles  
Hayes, esquire.

Verdict for at-  
torney general  
against G. Bar-  
ber, clerk.

## QUARE IMPEDIT—

*Continuance by* the premises before they give their judgment thereon, a day is  
*adv. vult.* given as well to the said sir Dudley Ryder, knight, attorney general of the said lord the king, who, &c. as to the said Charles Hayes and George Barber, here until on the morrow of the Holy Trinity of hearing their judgment thereon, for that the same justices here are thereof not yet advised, &c. at which day come here as well the said sir Dudley Ryder, knight, attorney general of the said lord the king, who, &c. as the said Charles Hayes and George Barber, by their attorney aforesaid, (divers continuances); and thereupon the said sir Dudley Ryder, knight, attorney general of the said, &c. for the said, &c. prays judgment to be given upon the said verdict for our said lord the king against the said Charles Hayes and George Barber; but because it appears to the justices here that the declaration of our said lord the king is not sufficient to have and maintain his said action, inasmuch as it appears by the said declaration, that the title of the said lord the king to present to the said church doth not accrue until and after the end and expiration of a term of sixty years, which appears by the said declaration to be still subsisting and not expired, and that therefore no judgment can be given for our said lord the king; it is therefore considered and adjudged that no judgment be entered on the said verdict, and that the said Charles Hayes and George Barber do go hence without day, saving the right of our said lord the king, &c.

*Final judgment for patrons, for insufficiency of declaration.*

*Proclamation.*

Afterwards, that is to say, on Friday next after to-morrow of the Holy Trinity in the said term before our lord the king at Westminster, come as well the aforesaid sir Dudley Ryder, knight, attorney general of our said sovereign lord the king, who for our said sovereign lord the king in this behalf prosecuted, as the aforesaid Charles Hayes and George Barber, by Nicholas Coulthrust, their attorney; and upon this proclamation is made here in court, if any one of our said lord the king will inform the court of our said lord the king here, or the serjeant at law of our said lord the king, or of attorney general of our said lord the king of and concerning the premises, he should come forth and should be heard, and none appeared to do this, neither did the attorney general of our said lord the king, nor the serjeant at law of our said lord the king, inform the court of and concerning the premises; therefore it is considered that the aforesaid Charles Hayes and George Barber at present go thereof without day, saving the right of our said lord the king, &c.

<p>HAYES  <i>against</i>          THE ARCHBISHOP OF YORK.</p>	}	<p>YORKSHIRE to wit.          Elsewhere as it appears in the term of Saint Michael last past, upon the 543d Roll, it is there contained: Yorkshire, to wit. Thomas, archbishop of York, was summoned to answer Charles Hayes, esquire, administrator, with the will annexed of the</p>
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the goods and chattels which were of John Cole, late of the parish of Saint Giles's in the Fields, in the county of Middlesex, esquire, deceased, of a plea that he permit the said Charles to present a fit person to the church of Ryther, alias Ryder, which is vacant, and belongs to his gifts, &c.; and whereupon the said Charles, by A. B. his attorney, saith, that whereas Henry Bayles was seised of the advowson of the church aforesaid as of gross by itself as of fee and right, and the said Henry being so seised thereof, afterwards, to wit, on the eleventh of July, in the thirty-fifth year of the reign of his late majesty Charles the Second, late king of England, &c. the said church being then full of one Robert Morrett, clerk, the then incumbent thereof, at Ryther alias &c. aforesaid, by a certain indenture then and there made between the said Henry Bayles, by the name and description of Henry Bayles of Selby, in the county of York, gentleman, of the one part, and the said John Cole, citizen and plumber, of London, of the other part, (one part of which said indenture sealed with the seal of the said Henry Bayles, the said Charles Hayes brings here into court, the date whereof is the day and year aforesaid) granted to the said John Cole the advowson aforesaid, (amongst other things) to have and to hold to the said John Cole, his executors, administrators, and assigns, from the day next before the day of the date of the same indenture, until the full end and term of one thousand years, from thence next ensuing, and fully to be complete and ended, as by the same indenture, amongst other things, it more fully appears; by virtue of which said grant, the said John Cole was possessed of the said advowson aforesaid; and the said John Cole being so possessed thereof, the said church became vacant by the death of the said Robert Morrett, the then last incumbent thereof, wherefore the said John Cole presented to the said church being so vacant as aforesaid William Elseley, his clerk, who upon the presentation of the said John Cole was admitted, instituted, and inducted in and to the same in the time of peace, in the time of her late majesty Anne, late queen of England, &c. and the said John Cole being so possessed of the advowson aforesaid, the said church being full of the said William Elseley, the incumbent thereof as aforesaid, the said John Cole died possessed thereof, to wit, at Ryder alias, &c. aforesaid, after whose death the said church became vacant by the death of the said William Elseley, the last incumbent thereof, and is still vacant: And the said Charles further saith, that after the death of the said John Cole, and also after the death of the said William Elseley, and during the vacancy of the said church by the death of the said William Elseley the last incumbent thereof as aforesaid, to wit, on the eighteenth of October 1743, administration, with the will annexed of the goods and chattels which were of the said John Cole received, was in due form committed to the said Charles by William Ward, doctor of laws, commissary and keeper general of the exchequer and prerogative court of the said Thomas, archbishop of York,

administration of the goods and chattels of Cole were granted to plaintiff. Administration committed. primate

The bishop admitted a clerk pending the former suit, vide 3. Black. 293.

That Henry Bayles was seised of the advowson as of gross as of fee, and being so seised on the eleventh of July thirty-fifth Charles Second, by indenture between himself of the one part, and J. Cole of the other, granted to the said J. Cole the said advowson, amongst other things, to have and to hold to the said J. Cole, his executors, &c. for one thousand years, by virtue whereof Cole was possessed of the said advowson, and the said church became void by the death of the incumbent, and that he presented W. Elseley, who was admitted, instituted, and inducted; that the said John Cole died so possessed thereof, after whose death the church became vacant by the death of Elseley, and that it was vacant. Administration committed.

## PLEA BY BISHOP. IMPARLANCES.

primate of England, and metropolitan, viz. at Ryther alias, &c. aforesaid; and by reason thereof at present it belongeth to the said Charles to present to the said church being so vacant as aforesaid, and the said archbishop unjustly hinders him thereof; whereupon the said Charles saith that he is injured, and hath damage to the value of two hundred pounds, and thereupon he brings suit, &c.; and he bringeth here into court the letters of administration to the said Charles in form aforesaid, the date whereof is the day and year aforesaid in that behalf, &c.

Protest of letters  
of administra-  
tion.

And the said archbishop comes by A. B. his attorney, and defends the wrong and injury whereof, &c. and craves leave to imparl thereupon here until in eight days after Saint Hilary, and he hath it, &c.; the same day is given to the said Charles here, &c. at which day come as well the said Charles, by his attorney aforesaid, as the said archbishop, by the said A. B. his attorney; and the aforesaid Charles prays that the aforesaid archbishop may answer to his declaration aforesaid, whereupon the said archbishop as before defends the wrong and injury when, &c. and saith, that he claims not any thing in the said church, nor in the advowson of the church aforesaid, except the admission, institution, and induction of parsons of that church, as ordinary of the same place, and other matters which belong to the said ordinary, and this he is ready to verify; whereupon he prays judgment if the said Charles Hayes, unless a special disturbance in this behalf be assigned against him the said archbishop, ought to have his said action against him, &c.

The archbishop  
claims nothing  
but as ordinary.

J. AGAR.

Imparlances.

And the said Charles prays day to imparl to the said plea of the said archbishop, and it is granted to him, &c. and thereupon day is given as well to the said Charles Hayes, as to the said archbishop, here until from the day of Easter in fifteen days, i. e. for the said Charles Hayes to imparl to the said plea, and then to reply thereto, &c. At which day here come as well the said Charles Hayes, by his attorney aforesaid, as the said archbishop, by his said attorney; and the said Charles Hayes prays further day to imparl to the said plea of the said archbishop, and it is granted to him, &c. and thereupon a day is given as well to the said Charles Hayes as to the said archbishop here until the morrow of the Holy Trinity, i. e. for the said Charles Hayes to imparl to the said plea, and then to reply thereto, &c. at which day come here as well the said Charles Hayes, by his attorney aforesaid, as the said archbishop, by his said attorney; and the said Charles Hayes inasmuch as the said archbishop hath not nor doth claim to have any thing in the said church, or in the advowson thereof, but the admission, institution, and induction of parsons to the same church, as ordinary of the same place, and other matters which belong to the ordinary, prays judgment and a writ to the said archbishop, therefore

therefore it is considered, that the said Charles do recover his pre-  
 sentation to the said church against the said archbishop, and that  
 he have a writ to the said archbishop, that he, notwithstanding  
 his disclaimer, admit a fit person to the said church upon the pre-  
 sentation of the said Charles, and no amercement is awarded against  
 the said archbishop, because he excuses himself from any special  
 disturbance, &c.

Plaintiff prays  
 a writ to the  
 archbishop and  
 it is granted.

Afterwards, *i. e.* on the morrow of the Holy Trinity, in the  
 term of the Holy Trinity, in the twenty-fourth year of the reign  
 of our lord the present king, cometh the said Charles Hayes, by  
 the aforesaid A. B. his attorney, into the court of our said lord the  
 king here, and giveth the court here to understand, that execution  
 of the said judgment still remains to be made, and that the said  
 Thomas, archbishop of York, since the rendering of the said judg-  
 ment, hath been translated from that his archiepiscopal see to the  
 archiepiscopal see of Canterbury, whereby the archiepiscopal see  
 of York became vacant, and that since the translation of the said  
 Thomas, archbishop of York, Matthew Hatton, late bishop of  
 Bangor, hath been in due manner translated from the said see of  
 Bangor to the said archiepiscopal see of York, and hath been in  
 due manner elected and created archbishop of York, and yet is  
 archbishop of York, and therefore the said Charles Hayes prays a  
 writ of the said lord the king to be directed to the said Matthew,  
 archbishop of York, that notwithstanding the disclaimer of the  
 said late archbishop his predecessor, he admits a fit person to the  
 said church upon the presentation of the said Charles, and it is  
 granted to him, &c.

Suggestion of  
 the archbishop's  
 translation to  
 Canterbury, and  
 the bishop of  
 Bangor's trans-  
 lation to York,  
 and prays a writ  
 to him, and it  
 is granted.

JOHN ANSTIS, ESQUIRE,  
*against*  
 THE BISHOP OF NORWICH, ELIZA-  
 BETH MONEY, WIDOW, AND HUM-  
 PHREY CHRISTIAN.

Norfolk, to wit. Thomas, bishop of Norwich, Elizabeth Money,  
 widow, and Humphrey Christian, clerk, were summoned to  
 answer John Anstis, esquire, executor of the last will and testa-  
 ment of John Anstis, esquire, his late father, deceased, of a plea  
 that they permit him to present a fit person to the church of Burn-  
 ham Deepdale, which is vacant and belongs to his gift, and where-  
 upon the said John Anstis, the now plaintiff, by Matthew Coul-  
 thrust, his attorney, says, that one John Harris, esquire, was  
 seised of and in the manor of Poulstead Hall alias Westgate, with  
 the appurtenances, in the said county of Norfolk, to which manor  
 the advowson of the church of Burnham Deepdale did belong, and  
 yet doth belong in his demesne as of fee; and being so seised

ELSEWHERE as  
 it appears of the term of  
 Easter last past, upon  
 the 422d and 423d Rolls,  
 it is thus contained:

To present to  
 the church of  
 Burnham Deep-  
 dale.

which the advowson of the said church was appendant to his demesne  
 thereof,

That John  
 Harris, esquire,  
 was seised of  
 the manor of  
 Poulstead Hall  
 alias Westgate,  
 as of fee.

# DECLARATION BY EXECUTOR.

that John Harris the said John Harris presented Thomas Green, his clerk, to the said church of Burnham Deepdale, being vacant, who upon the presentation of the said John Harris was admitted, instituted, and inducted into the same in the time of peace, in the time of the lord James the Second, late king of England: And the said John Anstis, the now plaintiff, further says, that the said John Harris being so seised of the said manor, to which, &c. with the appurtenances, in his demesne as of fee, he the said John Harris afterwards, to wit, on the first of May 1691, at Burnham Deepdale aforesaid, died so seised of such estate therein, after whose decease the said manor, to which, &c. with the appurtenances, descended and came to John Harris, gentleman, as son and heir of the said John Harris, esquire, whereby the said John Harris the son became and was seised of the said manor, to which, &c. with the appurtenances, in his demesne as of fee; and being so seised thereof, and the said church being full of the said Thomas Green, the then incumbent thereof, he the said John Harris the son, afterwards, to wit, on the twenty-second of June 1700, at Burnham Deepdale aforesaid, by a certain indenture then and there made between the said John Harris the son of the one part, and one Thomas Harris, brother to the said John Harris the son of the other part, the one part of which said indenture, sealed with the seal of the said John Harris the son, the said John Anstis, the now plaintiff, brings here into court, the date whereof is of the same day and year last-mentioned, for the consideration therein-mentioned did demise unto the said Thomas Harris the said manor, to which, &c. with the appurtenances, (amongst other things) to have and to hold the same to the said Thomas Harris, his executors, administrators, and assigns, from the day next before the day of the date of the said indenture, for and during, and to the full end and term of five hundred years from thence next ensuing, and fully to be complete and ended as by the said indenture (amongst other things) more fully appears; by virtue of which said demise the said Thomas Harris entered into the said manor, to which, &c. with the appurtenances, and became and was possessed thereof, and being so possessed thereof, and the said church being full of the said Thomas Green as aforesaid, he the said Thomas Harris afterwards, to wit, on the twenty-fifth of February 1701, at Burnham Deepdale aforesaid, by a certain other indenture then and there made between the said John Harris the son, and the said Thomas Harris of the one part, and one John Roydhouse of the other part, (one part of which last-mentioned indenture, sealed with seals of the said John Harris the son, and the said Thomas Harris, the said John Anstis, the now plaintiff, brings here into court, the date whereof is the same day and year last-mentioned) for the consideration therein mentioned, did assign unto the said John Roydhouse all his estate, right, title, interest, and term of years then to come and unexpired, which he term to the said J. Roydhouse.

then

then had of and in the said manor, to which, &c. with the appurtenances, unto the said John Roydhouse, by virtue of which said assignment the said John Roydhouse entered into the said manor, to which, &c. with the appurtenances, and was possessed thereof, and being so possessed thereof, and the said church being full as aforesaid, he the said John Roydhouse afterwards, to wit, on the third of March 1708, at Burnham Deepdale aforesaid, by a certain indenture tripartite then and there made between the said Thomas Harris of the first part, the said John Roydhouse of the second part, and one John Sylvester, of Barthwaite, in the county of York, esquire, of the third part, (the second part of which last-mentioned indenture, sealed with the seal of the said John Roydhouse, the said John Antlis, the now plaintiff, brings here into court, the date whereof is the same day and year last mentioned) for the consideration therein mentioned, did assign all his estate, right title, interest, and term of years then to come and unexpired, of and in the said manor, to which, &c. with the appurtenances, to the said John Sylvester, by virtue of which last-mentioned assignment the said John Sylvester entered into the said manor, to which, &c. with the appurtenances, and became and was possessed thereof, and being so possessed thereof, and the said church being full as aforesaid, he, the said John Sylvester, afterwards, to wit, on the third of September 1715, at Burnham, &c. aforesaid, by a certain indenture then and there made between the said John Sylvester on the one part, and one William Cock, esquire, on the other, (the one part of which last-mentioned indenture, sealed with the seal of the said John Sylvester, the said John Antlis, the now plaintiff, brings here into court, the date whereof is the day and year last mentioned) for the consideration therein mentioned, did assign all his estate, right, title, interest, and term of years then to come and unexpired; of and in the said manor, to which, &c. with the appurtenances, to the said William Cock, by virtue of which last-mentioned assignment, the said William Cock entered into the said manor, to which, &c. with the appurtenances, and became and was possessed thereof; and being so possessed thereof for the residue of the said term, and the said church being then full as aforesaid, he the said William Cock afterwards, to wit, on the eighteenth of January 1722, at Burnham Deepdale aforesaid, made his last will and testament in writing, and thereby made and constituted one Simon Aris, esquire, and Robert Temple, esquire, executors of his said will, and afterwards, to wit, on the same day and year last mentioned there died so possessed of the said manor, to which, &c. with the appurtenances, for the residue of the said term of years then to come and unexpired, after whose death the said Simon Aris and Robert Temple took upon themselves the burthen and execution of the said will, and proved the same in due form of law, to wit, at Burnham, &c. aforesaid, by reason of which premises, they the said Simon Aris and Robert Temple entered into the said manor,

By virtue of which assignment J. Roydhouse was possessed of the said manor to which, &c. and being so possessed on third March 1708, by indenture between Thomas Harris of the first part, John Roydhouse of the second, and John Sylvester of the third part, assigned over the remainder of his term to the said John Sylvester, by virtue of which assignment the said John Sylvester was possessed of the said manor to which, &c. and being so possessed on the third of September 1715, by indenture between J. Sylvester of the one part, and Wm. Cock of the other. Assigned over the remainder of his term to said Wm. Cock, by virtue of which assignment, W. Cock was possessed of the said manor to which, &c. and being so possessed made his will and appointed Simon Aris and Robert Temple his executors. That the said Wm Cock died so possessed thereof after whose death the executors proved his will.

## QUARE IMPEDIT.—DECLARATION—

By reason to which, &c. with the appurtenances, and became and were  
whereof Simon possessed thereof for the residue of the said term of years then to  
Aris and Robt come and unexpired, and the said Simon Aris and Robert Tem-  
ple, exe- ple afterwards, to wit, on the third of June 1731, being so pos-  
cutors, wer. sessed of the said manor, to which, &c. with the appurtenances,  
said manor to for the residue of the said term of years then to come and unex-  
which, &c. and pired, at Burnham, &c. aforesaid, by a certain indenture quadru-  
being so pos- partite then and there made between the said Simon Aris and Ro-  
sessed on third bert Temple of the first part, one Elizabeth Hancock, the then  
June 1731, by wife of one Gustavus Hancock, esquire, of the second part, the  
indenture be- said Thomas Harris of the third part, and John Anstis, esquire,  
tween S. Aris now deceased, late father of the said John Anstis the now plaintiff  
and R. Temple of the fourth part, (the first part of which said indenture, sealed  
of the first part, with the seal of the said Simon Aris and Robert Temple, the said  
one Elizabeth John Anstis the now plaintiff brings here into court, the date  
Hancock, wife of, &c. of the said John Anstis the now plaintiff, whereof is the day and year last mentioned), for the consideration  
of the second part, therein mentioned did assign all their estate, right, title, interest,  
Thomas Harris and term of years which they then had to come and unexpired, of  
of the third part, and in the aforesaid manor, to which, &c. with the appurtenances,  
and J. Anstis unto the said John Anstis in his life time, now deceased, late fa-  
now deceased, ther of the said John Anstis the now plaintiff, by virtue of which  
father of the now last-mentioned assignment the said John Anstis, esquire, late fa-  
plaintiff, of the ther of the said John Anstis the now plaintiff, entered into the  
fourth part, as said manor, to which, &c. with the appurtenances, and became  
signed over the and was possessed thereof, and being so possessed thereof, and the  
remainder of said church being full as aforesaid, be the said John Anstis, esquire,  
their term to the now plaintiff's late father, afterwards, to wit, on the twenty-  
said John Anstis first of November 1734, at Burnham, &c. aforesaid, made his  
now deceased, last will and testament in writing, and thereby made and consti-  
By virtue of the said tuted the said John Anstis the now plaintiff executor of his said  
which assign manor to which, will; and afterwards, to wit, on the same day and year aforesaid,  
ment John Anstis there died so possessed of the said manor, to which, &c. with the  
was possess appurtenances, for the residue of the said term of years then to  
ed of the said come and unexpired, after whose death the said John Anstis the  
manor to which, now plaintiff took upon himself the burthen and execution of the  
&c. and being said will, and proved the same in due form of law, to wit, at  
so possessed, Burnham, &c. aforesaid, by reason of which premises the said  
made his will, John Anstis the now plaintiff entered into the said manor, to  
and appointed which, &c. with the appurtenances, and became and was pos-  
the said John sessed thereof for the residue of the said term of years then to come  
Anstis the now and unexpired, and yet is possessed thereof; and being so possessed  
plaintiff his ex- thereof, the said church of Burnham, &c. became vacant by the  
ecutor. death of the said Thomas Green the last incumbent thereof, and  
That the said yet is vacant, and by reason thereof it belongeth to the said John  
John Anstis the Anstis the now plaintiff as executor aforesaid to present a fit person  
father died so to the said church so being vacant, and the said Thomas, bishop  
possessed there- of Norwich, Elizabeth Money, and Humphrey Christian un-  
of, after whose justly hinder him; wherefore the said John Anstis the now plain-  
death the exe- tiff was possessed of  
cutors proved the said manor  
his will, by rea- to which, &c. for the residue of the said term of five hundred years, and the said church became  
son whereof the void by the death of the incumbent, and that therefore it belonged to him to present to it.

tiff says that he is injured, and hath damage to the value of five hundred pounds, and therefore he brings suit, &c.; and the said John Anstis the now plaintiff brings here into court, as well the letters testamentary of the said William Cock, which sufficiently testify to the court here that the said Simon Aris and Robert Temple are executors of the last will and testament of the said William Cock, and have administration thereof, as also the letters testamentary of the said John Anstis, esquire, the now plaintiff's late father, by which it appears to the court here that the said John Anstis the now plaintiff is executor of the last will and testament of the said John Anstis, esquire, his late father, deceased, and thereof hath administration, &c.

The plaintiff *proferit in curiam* both the letters testamentary of Wm. Cock, and his late father John Anstis.

And the said bishop of Norwich, by A. B. his attorney, and the said Elizabeth Money, and Humphrey Christian, by C. B. their attorney, come and defend the wrong and injury when, &c. and the said bishop saith, that the aforesaid church is within his diocese of Norwich, and that he hath not any thing, nor claims to have any thing in the said church, nor in the advowson of the said church, except the admission and institution of parsons into the said church and anoval of them therefrom, and all such other things as belong to the ordinary as ordinary of that place, and this he is ready to verify; wherefore he prays judgment if the said John Anstis the now plaintiff without assigning some special disturbance in the person of him the said bishop, ought to maintain his action aforesaid against him, &c.

The bishop claims nothing but as ordinary

And the said Elizabeth Money saith, that the said John Anstis the now plaintiff ought not to have his action aforesaid against her, because protesting that the said John Harris was not seised of and in the said manor of Poultsford rectory, alias Westgate, with the said advowson of the church of Burnham Deepdale then to appendant in his demesne as of fee as is above supposed; for plea she the said Elizabeth saith, that Thomas Stoughton, clerk, was seised of and in the manor of Burnham Deepdale, with the appurtenances, in the said county of Norfolk, to which manor the advowson of the said church of Burnham, &c. did belong in his demesne as of fee, and being so seised thereof, and the said church being full and provided with Henry Spurling, clerk, incumbent thereof, he the said Thomas Stoughton on the tenth of January 1676, at Burnham, &c. aforesaid, did grant unto the said John Harris and his assigns the then next advowson, donation, nomination, and presentation of the said church, by virtue of which grant the said John Harris was possessed of the said advowson of the said church for the said next presentation to the same which should afterwards happen to become vacant; and the said John Harris being so possessed of the said advowson of the said church for the said next presentation thereto, (the reversion of the said advowson of the said church belonging to the said Thomas Stoughton and his heirs)

Patron's plea.

That T. S. granted the next presentation to J. H.

The said church  
became vacant  
by resignation.

J. H. presented  
his clerk, who  
was admitted,  
&c.

Said Thomas  
made his will ;

and devised to  
his wife for life,  
remainder to  
his son T. S. in  
fee, and died.

Said T. S. the  
son died.

The reversion  
of said manor to  
which, &c. de-  
scended to H. S.  
as brother and  
heir.

the said church became vacant by the resignation of the said Henry Spurling; which said advowson of the said church was the next avoidance thereof after the making of the said grant by the said Thomas Stoughton unto the said John Harris and his assigns as aforesaid; whereupon the said John Harris presented to the said church being so vacant the said George Green, his clerk, who upon the presentation of the said John Harris was admitted, instituted, and inducted into the same in the time of peace, in the time of the said lord James the Second, late king of England; and the said Thomas Stoughton being so seised of the said manor of Burnham Deepdale, to which, &c. and the church aforesaid so being full and provided with the said Thomas Green, he the said Thomas Stoughton afterwards, to wit, on the first of March 1676, at Burnham, &c. aforesaid, made his last will and testament in writing. and thereby gave and devised the said manor of Burnham, &c. with the appurtenances, to which, &c. unto his son Henry Stoughton and his heirs; and afterwards, to wit, at Burnham, &c. aforesaid, died so seised of such his estate therein, after whose death the said Henry Stoughton entered into the said manor of Burnham Deepdale, with the appurtenances, to which, &c. and was seised thereof in his demesne as of fee, and the said Henry Stoughton being so seised thereof in his demesne as of fee, and the said Henry Stoughton being so seised thereof, afterwards, to wit, on the fourth day of October 1689, at Burnham, &c. aforesaid, made his last will and testament in writing, and thereby gave and devised the said manor of Burnham Deepdale, with the appurtenances, to which, &c. to his wife, Anne Stoughton, for and during the term of her natural life, and from and after the decease of the said Anne, unto his son Thomas Stoughton and his heirs for ever; and afterwards, to wit, at Burnham Deepdale aforesaid, died seised of such his estate therein, after whose death the said Anne entered into the said manor of Burnham Deepdale, with the appurtenances, to which, &c. and was seised thereof in her demesne as of freehold, and being so seised thereof, (and the reversion thereof belonging to the said Thomas Stoughton the son, and his heirs as aforesaid) he the said Thomas Stoughton the son afterwards, viz. on the thirteenth of October 1703, at Burnham Deepdale aforesaid, died seised of such his estate therein without any issue of his body issuing, upon whose death the said reversion of the said manor of Burnham, &c. with the appurtenances, to which, &c. descended unto his brother Henry Stoughton and his heirs, as brother and heir of the said Thomas last above mentioned, by virtue whereof the said last Henry was seised of the said reversion in his demesne as of fee, and being so seised thereof, the said Anne afterwards, to wit, at Burnham, &c. aforesaid died, after whose death he the said Henry Stoughton the brother entered into the said manor of Burnham Deepdale, with the appurtenances, to which, &c. and was seised thereof in his demesne as of fee, and being so seised of the said manor of Burnham Deepdale, with the appurtenances, to which, &c. as aforesaid, afterwards, to wit,

on the eighteenth of April 1742, at Burnham Deepdale aforesaid, <sup>Said H. S. con-</sup> by a certain indenture then and there made between the said Henry <sup>veys by lease</sup> Stoughton the brother of the one part, and one Benjamin Money <sup>and release to</sup> of the other part, he the said Henry Stoughton the brother, for <sup>B. M.</sup> and in consideration of a certain sum of money in hand paid as therein mentioned, did bargain and sell unto the said Benjamin <sup>Deed of lease.</sup> Money the said manor of Burnham Deepdale, with the appurtenances, to which, &c. to have and to hold the same unto the said Benjamin Money and his assigns, from the day next before the day of the date thereof for and during the term of one whole year thence next ensuing, by virtue whereof, and also by force of the Statute for transferring of uses into possession, he the said Benjamin Money was possessed of the said manor of Burnham Deepdale, with the appurtenances, to which, &c. (the reversion thereof belonging to the said Henry Stoughton the brother and his heirs) and being so possessed thereof, and the said Henry Stoughton the brother being seized of the reversion thereof in his demesne as of fee as aforesaid afterwards, to wit, on the nineteenth of April in the said year 1743, by a certain other indenture made at Burnham, Deepdale <sup>Deed of release.</sup> aforesaid, between the said Henry Stoughton the brother of the one part, and the said Benjamin Money of the other part, he the said Henry Stoughton the brother, for and in consideration of a certain sum of money therein mentioned, granted and released to the said Benjamin Money and his heirs the said manor of Burnham Deepdale, with the appurtenances, to which, &c. to have and to hold the same unto the said Benjamin Money, his heirs and assigns, to the only use and behoof of the said Benjamin Money, his heirs and assigns for ever, by virtue whereof, and also by force of the Statute aforesaid, he the said Benjamin Money was seized of the said manor of Burnham Deepdale, with the appurtenances, to which, &c. in his demesne as of fee, and being so seized thereof, he the said Benjamin afterwards, to wit, on the fifteenth day of November 1748, at Burnham Deepdale aforesaid, made his last will and testament, and thereby gave and devised the said manor of Burnham Deepdale, with the appurtenances, to which, &c. unto the said Elizabeth his then wife, for and during the term of her natural life, or so long time as the said Elizabeth should continue his widow, and afterwards to wit, on the same day and year aforesaid, at Burnham Deepdale aforesaid, he the said Benjamin died seized of such his estate therein, after whose death the said Elizabeth entered into the said manor of Burnham Deepdale, with the appurtenances, to which, &c. and was seized thereof in her demesne as of freehold determinable as aforesaid, and the said Elizabeth hath never since been married, and the said Elizabeth being so seized thereof as aforesaid the said church became vacant by the death of the said Thomas Green the last incumbent thereof, by reason thereof it then belonged to the said Elizabeth to present a fit person to the said church so being vacant, and thereupon she the said Elizabeth, to the church being so vacant, presented the afore-

Said B. M. made his will, and devised the said manor to which, &c. to his wife during widowhood, and died.

The said church became vacant. Said Elizabeth, (the wife of said B. M.) presented H. C. who was admitted, and is parson.

Traverse that  
the said advow-  
son belongs to  
the said manor  
of P. H.

said Humphry Christian, clerk, to the said bishop of Norwich, ordinary of the same place, as it was lawful for her to do, and upon the said presentation of the said Elizabeth Money the said Humphry Christian, before the issuing of the said writ of the said John Anstis now plaintiff was admitted, instituted, and inducted therein, and by reason thereof, from thence hitherto hath been and still is parson of the said church, imprisoned in the same on the said presentation of the said Elizabeth Money, without this, that the said advowson of the said church of Burnham Deepdale doth belong to the said manor of Poulstead Hall, alias Westgate, with the appurtenances, as the said John Anstis now plaintiff hath in declaring above alledged, and this the said Elizabeth is ready to verify; wherefore she prays judgment if the said John Anstis now plaintiff ought to have his action aforesaid against her, &c.

Clerk's plea.

And the said Humphry Christian saith, that he is parson of the said church of Burnham Deepdale, imprisoned in the same on the presentation of the said Elizabeth Money, and that the said John Anstis now plaintiff ought not to have his action aforesaid against him, because protesting, &c. (the same plea as Elizabeth Money.)

Replication to  
bishop's plea.

And the said John Anstis the now plaintiff as to the aforesaid plea of the said bishop above pleaded, since that the said bishop claims nothing in the said church, nor in the said advowson thereof, but the admission and institution of parsons into the same church and removal of them therefrom, and all such other things as belong to the ordinary of that place, prays judgment and a writ to the same bishop, &c.; it is therefore considered that the said John Anstis the now plaintiff do recover against the said bishop his presentation to the said church, and that he have a writ to the said bishop, that notwithstanding the disclaimer of him the said bishop, he admit a fit person to the church aforesaid at the presentation of the said John Anstis the now plaintiff. &c. and no amercement of the said bishop because he excuseth himself of any special impediment, &c. but let the execution thereof itay until the aforesaid plea between the said John Anstis the now plaintiff, and the said Elizabeth Money be determined, &c.

Replication to  
patron's plea;  
issue joined,  
whether the  
church of Burn-  
ham Deepdale  
was appendant  
to the manor of  
Burnham Deep-  
dale, or the  
manor of Poul-  
stead Hall, alias  
Westgate.

And the said John Anstis the now plaintiff as to the aforesaid plea of the said Elizabeth Money above pleaded in bar saith, that he by any thing before alledged by the said Elizabeth in the said plea ought not to be barred from having his said action against her, because he as before saith, that the said advowson of the said church of Burnham Deepdale doth belong to the said manor of Poulstead Hall, alias Westgate, with the appurtenances, as the said John Anstis the now plaintiff hath in declaring above alledged, and this he prays may be enquired of by the country, &c. and the said Elizabeth Money doth the same, &c.

And

And, &c. because he as before saith, that the said advowson of the church of Burnham Deepdale doth belong to the said manor of Poulstead Hall, alias Westgate, with the appurtenances, as the said John Antis the now plaintiff hath in declaring above alledged, and this also he prays may be enquired of by the country; and the said Humphrey Christian doth the same; therefore, &c.

WILLIAM HOWARD  
*against*  
THE BISHOP OF DURHAM,  
MATTHEW BELL, AND JOHN  
ANSLEY.

**NORTHUMBERLAND**, Declaration by  
to wit. Edward, bishop of infant by next  
Durham, Matthew Bell, gen- friend states,  
leman, and John Ansley, clerk,

ANSLEY.                         were summoned to answer

William Howard, esquire, of a plea that they permit the said William to present a fit person to the church of Elfdon which is vacant and in his gift, and whereupon the said William, by Elizabeth Howard, widow, his mother, who is admitted by the court of our lord the king here to prosecute for the said William, who is under the age of twenty-one years, as ne friend of the said William Howard says, that one Richard Newman and Thomas Lee were seised of and in the manor of Riddefdale, with the appurtenances, in the said county, to which manor the advowson of the church of Elfdon aforesaid did belong and doth yet belong in that demesne as of fee, and being so seised, they the said Richard Newman and Thomas Lee, on the third of June 1667, at Elfdon aforesaid, by a certain in ' and th ' between

R. N. and T. L.  
were seized of  
the manor of R.  
to which, &c.

And by indenture, third of June 1667, bargained and sold to H. H. and J. J.

James, then earl of Suffolk, and the said Thomas Lee, by the names of the right honourable Richard Newman, of the Middle Temple, London, esquire, and Thomas Lee, of the Middle Temple, London, esquire, of the one part, and the honourable Henry Howard, of London, esquire, and John Saint Martin in the Field, in the county of Middlesex, gentleman, of the other part, (one part of which said indenture, sealed with the seals of the said earl, Richard Newman, and Thomas Lee, the said William Howard brings here into court, the

in consideration of a certain sum by them and in consideration of a certain sum by them in hand paid by the said Henry Howard and John Jeffs, bargained and sold the said manor of Riddesdale, with the appurtenances, to which, &c. to the said Henry Howard and John Jeffs, to have and to hold the same to them and their assigns, from the day next before the day of the date thereof unto the full end and term of one whole year from thence next ensuing, and fully to be complete and ended, as by the said indenture here into court brought more fully appears, by virtue of which bargain and sale, and by force of the statute for transferring uses into possession, the said Henry Howard and John

Need of lease,  
&c. &c.

## QUARE IMPEDIT.—DECLARATION

Jeffs being so possessed thereof, and the reversion thereof belonging to the said Richard Newman and Thomas Lee as aforesaid, afterwards, to wit, on the fourth of June 1667, at Elfdon aforesaid, by a certain other indenture then and there made between the said earl of Suffolk, Richard Newman, of, &c. and Thomas Lee, of, &c. of the first part, one sir Charles Howard, knight, Dame Elizabeth his wife, and James Howard, esquire, by the names of sir Charles Howard, of London, knight, one of the gentlemen of his majesty's band of pensioners, and Dame Elizabeth his wife, and James Howard, esquire, son and heir of the said sir Charles Howard, by the said Dame Elizabeth of the second part; and the said Henry Howard and John Jeffs, by their names of, &c. of the third part, (the first part of which said last-mentioned indenture, sealed with the seals of the said earl, Richard Newman, and Thomas Lee, the said Thomas Howard brings here into court. the date whereof is the day and year last mentioned) did release unto the said Henry Howard and John Jeffs the manor aforesaid, with the appurtenances, to which, &c. to have and to hold to the said Henry Howard and John Jeffs, to the use and behoof of the said William Charlton (a) and his heirs for and during the term of the natural life of the said sir Charles Howard and Dame Elizabeth his wife, and the longer liver of them two, and from and after the decease of the survivor of them two, to the use and behoof of the said James Howard, esquire, and the heirs of his body lawfully begotten or to be begotten, and in default of such issue, to the use and behoof of all and every other son and sons of the body of the said sir Charles Howard on the body of the said Dame Elizabeth his wife lawfully to be begotten, and the heirs of the body of such other son and sons issuing respectively as they should be in seniority of age and priority of birth to take successively and not jointly, but the one after the other the elder of such sons and the heirs of his body being always preferred before the younger of such sons and the heirs of his body, and in default of such issue, to the use and behoof of all and every the daughter and daughters of the body of the said sir Charles on the body of the said Dame Elizabeth his wife lawfully to be begotten, and the heirs of their several and respective bodies lawfully issuing, and in default of such issue, then to the use and behoof of the said James, earl of Suffolk, his heirs and assigns for ever, as by the last-mentioned indenture brought here into court more fully appears, by virtue of which said indenture of release, and by force of the statute for transferring uses into possession, the said William Charlton became and was seised of the said manor, to which, &c. with the appurtenances, in his demesne as of freehold for the term of the natural lives of the said sir Charles Howard and Dame Elizabeth his wife, and the life of the survivor of them, the remainder thereof belonging to the said James Howard and the

(a) There must be some inaccuracy in reciting the parties to the deed, William Charlton, not before mentioned, must have been interposed as a trustee.

heirs of his body lawfully issuing; and the said William Charlton being so seised, the said sir Charles Howard and Elizabeth his wife, afterwards, to wit, on the first of April 1690, at the parish of Elldon aforesaid died, and after the decease of the said sir Charles and Elizabeth, the said James Howard entered into the said manor, to which, &c. with the appurtenances, and was seised thereof in his demesne as of fee tail, *i. e.* to him and the heirs of his body lawfully issuing; and being so seised thereof, the said James afterwards, to wit, on the first of May 1701, at the parish aforesaid, died seised of such his estate therein, after whose death the manor aforesaid, with appurtenances, to which, &c. descended to Charles Howard as son and heir of the body of the said James Howard lawfully begotten, whereby the said Charles Howard entered into the said manor, with the appurtenances, to which &c. and was seised thereof in his demesne as of fee tail, *i. e.* to him and the heirs of the body of the said James Howard lawfully begotten, and being so seised thereof, he the said Charles Howard afterwards, to wit, on the fifth of May 1720, at the parish aforesaid, died seised of such his estate therein, after whose decease the manor aforesaid, with the appurtenances, to which &c. descended to Charles Francis Howard as son and heir of the said Charles Howard lawfully begotten, whereby the said Charles Francis Howard entered into the said manor, with the appurtenances, to which, &c. and was seised thereof in his demesne as of fee tail, *i. e.* to him and the heirs of the body of the said James Howard lawfully issuing, and being so seised thereof, he the said Charles Francis Howard presented Hugh Sarrington, clerk, to the said church being vacant, who upon the presentation of the said Charles Francis Howard was admitted, instituted, and inducted into the same in the time of peace, in the time of the late king George the First; and the said Charles Francis Howard being so seised of the said manor, to which, &c. with the appurtenances, afterwards, to wit, on the nineteenth of February 1735, at the parish aforesaid, died seised of such his estate therein, after whose decease the said manor, with the appurtenances, to which, &c. descended to the said William Howard, esquire, as son and heir of the body of the said Charles Francis Howard lawfully begotten, whereby the said William Howard entered into the said manor, with the appurtenances, to which, &c. and was and yet is seised thereof in his demesne as of fee tail, that is to say, to him and the heirs of the body of the said James Howard lawfully issuing, and being so seised thereof, the said church became vacant by the death of the said Hugh Sarrington the last incumbent thereof, and yet is vacant, and by reason thereof at present it belongs to the said William Howard to present a fit person to the said church so being vacant, and they the said bishop, Matthew Bell, and John Andley unjustly hinder him the said William Howard from presenting a fit person to the said church, whereupon he the said William saith that he is injured, and hath damage to the value of five hundred pounds, and thereof he brings suit, &c.

And

**Bishop's plea,** And the said bishop of Durham, Matthew Bell, and John Ansley, by Hugh Watson, their attorney, come and defend the force and injury when, &c. and the said bishop saith, that the said church of Elsdon is within the diocese of Durham, and that he only claimed admission, &c. he neither hath nor claims to have any thing in the said church, nor in the advowson thereof, except the admission, institution, and induction of parsons to the said church, and other the matters which belong to him as ordinary of the said church, and this he is ready to verify; wherefore he prays judgment if the said William Howard without a special impediment in the person of the said bishop in this behalf to be assigned ought to have his action aforesaid thereof against him.

**Patron and clerk's plea.** And the said Matthew Bell and John Ansley, by A. B. their attorney, come and defend the force and injury when, &c. and the said attorney saith that he is not informed by the said Matthew Bell and John Ansley, or either of them, or any answer to be given for them, or either of them, to the said William Howard in the plea aforesaid, and saith nothing further thereupon, by reason whereof the said William Howard remains against the said Matthew and John without defence.

**Judgment and writ to the bishop.** And the said William Howard, as to the said plea of the said bishop above pleaded, since that the said bishop claims nothing in the said church nor in the advowson thereof, except the admission, institution, and induction of parsons to the said church as ordinary of the said church, prays judgment and a writ to the said bishop; it is therefore considered that the said William Howard do recover against the said bishop, Matthew Bell, and John Ansley, his presentation to the said church, and that he have a writ to the bishop that notwithstanding the disclaimer of the said bishop, Matthew Bell, and John Ansley, he admit a fit person to the church aforesaid upon the presentation of the said William Howard, and the said bishop is not amerced, because he excuseth himself from any special impediment, &c. and the said Matthew Bell and John Ansley are in mercy; and hereupon the said William Howard freely here in court remits to the said bishop, Matthew Bell, and John Ansley whatever damages might be adjudged to him on occasion of the premises; therefore the said bishop, Matthew Bell, and John Ansley are thereof acquitted.

**Remittitur damna.** This shews it is an injury without force. Vide Blackstone's Commentaries, 6. 3. p. 398.

**quare impedit at the suit of the party.** GEORGE the Third, &c. to the sheriff of Staffordshire, greeting: Command A. B. bishop of Litchfield and Coventry, that justly and without delay he permit Mary Powys, spinster, to present a fit person to the church of Cheekly in your county, which is vacant, and in the gift of the said Mary Powys as it

is said; and whereupon the said Mary Powys complains that the said bishop unjustly disturbs her, and unless the said bishop shall so do, and if the said Mary shall give you security to prosecute her claim, then summons by good summoners the said bishop, that he be before our justices at Westminster in fifteen days from the day of Easter, to shew wherefore he will not do it, and have you there the summoners and this writ. Witness ourself at Westminster the       day of       in the thirty first year of our reign.

*Drawn by Mr. TIDD.*

# I N D E X.

## GENERAL DIVISIONS OF HEADS, AND LEADING TITLES IN THE CIVIL DIVISION.

### QUARE IMPEDIT.

(PROCEEDINGS IN.)

#### A N A L Y S I S.

#### QUARE IMPEDIT.

##### I. DECLARATIONS.

II. PLEAS, &c. in ABATEMENT, (*See* Abatement) and BAR. (By Bishops and Clerks—Patrons and Clerks—Bishops—Patrons—and Clerks—and of Simony—Statute of Pluralities, &c.—Papist Recufants, &c.)

##### III. JUDGMENTS.

##### IV. OTHER PROCEEDINGS.

#### DECLARATIONS, PLEAS, &c.

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67. Declaration in *quare impedit* states sir J. D. being seised of manor to which advowson was appendant, presented, and by lease and release granted advowson to Metcalfe, clerk, in gross, which descended to his son, who by lease and release granted to his mother, widow of Metcalfe. Plea as usual by bishop. By pseudo patron, that before, &c. sir J. D. granted the manor to J. W. to which advowson was appendant, by deed, averring that the deeds are in the hands of the said Anne the widow, and that J. W. granted the manor, with the advowson, to the said earl the defendant, whereby he hinders, &c. Replication to bishop's plea. To plea of defendant, that sir J. D. was seised, and continued seised till the grant to Metcalfe, and traverses grant of the manor to the earl. Rejoinder traverses that sir J. D. continued seised till, &c. Judgment by *nil dicit* against the earl defendant.

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- Writ to the bishop. Writ of enquiry of usual points, with *cesset executio* to the bishop.
74. Declaration by attorney general against patron's clerk and bishop, stating a very special title to advowson in grois of the parish church of Ryther, alias Ryder in Yorkshire. Several fines levied, the last to king Ch. 2. Descents from him to king George 2. Usurpation by one Cole in the time of queen Anne, who presented Elseley. Death of Elseley, whereby it belonged to our lord the king. Imparlances. Plea by patron, avers that fine was levied, but the first presentation to be to the use of cognizor, and from and after such presentation the advowson to be to the use of Henry Bailes in fee, who granted to Cole for a term of one thousand years, and that patron is *administrator cum testamento annexo* of Cole, and traverses the fine levied as alledged. Plea by clerk, that fir M. W. a cognizee in one of the fines, devised advowson to defendant, and traverses that fir M. W. granted to M. W. esquire, as alledged. Imparlances. Usual plea by bishop. Replication to the bishop's plea. Writ to the bishop, *cesset executio* till, &c. Replication to patron's plea. Replication to clerk's plea. Further imparlances. Issue joined. *Venerunt* juror respited. *Si non omnes*. *Tales*. Verdict for attorney general against patron. Against clerk. *Curia ad vultu*. But judgment on the record for defendants, for that declaration is insufficient, it appearing that there was a term of sixty years subsisting in patron. Proclamation made, and judgment for defendants, saving the king's right. (*See* the precedents, where all the titles are more fully set out in the margin.)
- 92 Declaration by administrator *cum testamento annexo*, stating that H. B. seised of advowson in grois, 35. C. 2. by indenture granted to Cole for one thousand years. Avoidance by death, and Cole presented Elseley. Cole died. Avoidance by death of Elseley. Administration granted, and it belongs to him, &c. Proffer of letters of administration. Plea as usual by bishop. Imparlances. Writ to the bishop. Suggestion that the archbishop of York is translated to the see of Canterbury, and the bishop of Bangor translated to York, and prays a writ to him.
95. Declaration by executor, stating that J. H. seised of the manor to which advowson was appendant, presented, and died, and that son being seised demised the manor to his brother for five hundred years, and by indenture he assign'd to John Roydhouse for the remainder of the term. Several assignments, till the last to William Cock, who died possessed. Assignment by executors to plaintiff's father, who died pos-

seised,

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feised, and church becoming vacant it belongs to plaintiff for the residue of the term. Profer of letters testamentary. Plea by bishop as usual. By patron, protesting that J. H. was not seised; for plea, that T. S. being seised, granted next presentation to said J. H. and church being vacant J. H. presented, and T. S. made his will, devising to wife for life, with remainder to T. S. his son in fee. Reversion descended to H. S. the brother, who conveys by lease and release to B. M. who makes his will, and devises the manor to wife during widowhood, church vacant she presented; traverses that advowson belongs to the manor of Poulsted Hall. Plea by clerk similar to plea by patron. Replication to bishop's plea. To patron's plea, and issue joined, whether the church is appendant to the manor of Burnham Deepdale or the manor of Poulstead Hall, alias Westgate. Replication to clerk's plea, and issue.

103. Declaration by infant by *prochein ami*, states that R. N. and T. L. seised by indenture, bargained and sold to H. H. and J. J. and that the manor to which, &c. was limited in strict settlement; that plaintiff's father presented, and the manor descended to plaintiff an infant; church became vacant, and it now belongs, &c. Plea by bishop as usual, By patron and clerks, attorney *non sum informatus*. Judgment, and prays a writ to the bishop, and *remittit damna*.

106. Original writ of *quare impedit* at the suit of the party.

Declaration in *quare impedit* states that the record is entered of Michaelmas Term in the second year of the present king. And grant of moiety of a church to the plaintiff in fee of the advowson and statute 21 H. 8. against pluralities. Plea, that the bishop claims nothing but as ordinary. Plea by bishop, that the church was void *on institution* to the second living, and continued void six months, and after that time he collated by lapse. Plea by incumbent, that the bishop collated the church on him by lapse. Replication to the bishop's plea, that the late incumbent was not inducted to second living till twenty-second December 1759, and that within six months after he presented his clerk to the bishop, who refused to institute him to the incumbent's plea. The bishop's rejoinder. The incumbent's rejoinder. Demurrer, 1. Will. Rep. 174. b. 176. b. 178. b. 179

Declaration in *quare impedit*, plaintiff makes title as trustee of a term of five hundred years under a settlement in 1706. Plea by the defendant, the patron of the incumbent, that before the settlement one P. C. senior, was seised, and 10. Wm. 3. suffered a recovery to the use of the trustees for one thousand years, which is still subsisting, and says that nothing passed to the plaintiff by the settlement in 1706. The defendant the incumbent makes title under the other defendant his patron as heir in tail of P. C. junior, and tra-

verfes that P. C. ſenior was ſeiſed in fee as is alledged in the declaration, and ſhew is application to patron's plea, and being ſeiſed in tail 5. Ann. he whereby he became ſeiſed in 1706; that the term of one year is thereby barred for want of entry and defendant the patron. Judgment the parties to the fine at the *habereant in advowson*, the years being a *ſubſiſting term* turned to a right, -

that traverse. Return that P. C. junior, with proclamations, the ſettlement in is thereby barred Demurrer by defendant, becauſe levying thereof *nil* of one thouſand never divelled or

1. Wilk. Rep. 223

Writ of error from C. B. to B. R. in *quære impedit* at the ſuit of the king againſt the Prior and one Dandy. Return thereto. Transcript. Fiſt declaration ſtates that Car. 2. was ſeiſed of the advowſon *in groſs*, and preſented his clerk, who was admitted, &c. after which the king died, and the ſame deſcended to Jac. 2. who abdicated the throne, whereupon W. and M. became ſeiſed, and they were entitled to preſent, &c. but defendant hindered them. Four imparlances. Plea, that one P. S. was ſeiſed of the manor of &c. to which ſaid advowſon belonged, and demiſed to one P. who aſſigned to P. who preſented and died, and his adminiſtrator granted preſentation to one defendant, who preſented the other, and traverses that king Charles's preſentee was inſtituted, &c. Incumbent ſays that he was parſon. Imparalance, and traverse as above. Issue on patron's traverse, and on incumbent's iſſues ſent to the biſhop of the diocèſe to be tried. Biſhop's certificate. Judgment for the king. -

Lill. Ent. 339. to 342.

Count in *quære impedit*, ſet forth that plaintiffs were ſeiſed in fee of the advowſon of All'hallows, Honey Lane, *in groſs*; that in March 1663 they preſented Thomas Hutchinson, who was admitted, &c.; that the archbiſhop of Canterbury was ſeiſed in fee of the advowſon of St. Mary-le-Bow *in groſs*, and that William Juxon, then archbiſhop, in October 1762, collated George Smallwood; that the ſame archbiſhop was ſeiſed of the advowſon of St. Pancras, Roper Lane, in fee, in groſs, and in June 1662 collated Samuel Dillingham; that the three churches were deſtroyed by fire, and thereupon, by the ſtatute 22. Car. 2. it was enacted that *the three pariſhes ſhould be united*, and that Bow Church ſhould be the pariſh church of the three pariſhes; that the reſpective patrons of the three churches ſo united ſhould preſent by turns to that church only, the fiſt preſentation to be made by the patron of ſuch of the ſaid churches the endowment whereof was of the greateſt value; by virtue whereof the archbiſhops and plaintiff became ſeiſed of the advowſon of Bow Church, and the other two in fee as of one *in groſs*, and entitled to preſent to Bow Church aforeſaid; that after the ſtatute the church of Bow became vacant by the death of George Smallwood, and

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archbishop Sandcroft in 1679 collated *Timothy Puller*; that the church became vacant by the death of Puller, and archbishop Tillotson, in 1693, as in his second term, collated Samuel Bradford, who was afterwards created bishop of Rochester, and the church thereby became vacant, whereby king Geo. 1. by his prerogative, dated the tenth of July 1720, Dr. Samuel Lisle to Bow Church, with the other two churches, who was admitted, &c. and afterwards created Bishop of St. Asaph, whereupon king Geo. 2. on the tenth of April 1744, presented Dr. Newton in like manner, who was admitted, &c. and that after the church became vacant by *resignation*, and is yet void, by reason whereof it belongs to the plaintiffs in their turn, being the third, to present a fit person, but defendants hinder them. Demurrer by the archbishop, one of defendants generally to the declaration. Plea by the other defendant, that he is *parson* of the church on the presentation of the archbishop, that the plaintiffs ought not to have their action. Admits that plaintiff was seised of Allhallows, Honey-lane, and presented Hutchinson; that the archbishop was seised of Bow church, and collated Smallwood; archbishop seised of St. Pancras, Soper-lane, and collated Dillingham; that the three churches were burnt, and that thereupon the archbishop became seised and entitled to present as in the declaration, and that Bow Church became vacant by the death of Smallwood as in the declaration; but this defendant further says, that Bow Church was of greater value than either of the other two churches, and that the church of Allhallows, &c. was of greater value than St. Pancras, &c. viz. of so much respectively per annum, by reason whereof the archbishop for the time being became entitled to present to Bow Church in the first turn, the plaintiffs in the second turn, and the archbishop in the third turn; and true it is that archbishop Sandcroft, on the death of Smallwood did in his *first* turn collate Puller, and that the church became vacant by the death of Puller, but that thereupon, according to the said statute, it belonged to the plaintiffs to present in their *second* turn, but that archbishop Tillotson collated Bradford by *usurpation*; that Bradford being in the said church, was created bishop of Rochester, and king George the First presented Dr. Lisle, who was admitted, &c. and Dr. Lisle being so clerk of the said church, was created bishop of St. Asaph, and king George the Second presented Dr. Newton, who was admitted, &c. and afterwards the church became vacant by the resignation of Dr. Newton, by reason whereof it belonged to the present archbishop to present in his *third* turn, and that thereupon he collated this defendant before the issuing of plaintiff's writ, by reason whereof this defendant is still *in possession* &c.; wherefore, &c. Joinder in demurrer and pray judgment and a writ

to plea of the *other defendant*; say, they ought not to be barred, because *protesting* that Allhallows, &c. *was not*, at the time of making the said statute, of *greater value* than St. Pancras; *protesting* also, that archbishop Tillotson *did not usurp* upon plaintiffs. For *replication* plaintiffs say, that the church became vacant by the resignation of Dr. Newton, and it belongs to plaintiffs to present in their *third* turns, yet the defendants *hinder* them; *without this*, that it belonged to the plaintiffs to present at the *second* turn when the church became vacant by the death of Puller, as this defendant hath alledged in his plea. Demurrer by defendant (the incumbent) to the replication, and shews for *special cause* that the plaintiffs *have not traversed* any matter of *fact* alledged in the plea, but have traversed *matter of law*. Joinder in demurrer, - - -

2. Will. Rep. 214. to 221

Count in *quare impedit* sets forth that plaintiffs were seised of the advowson of the church *in gross*, and the same being vacant at the death of Dr. Burton; that in 1771 the church became vacant at the death of Dr. B. and is still void, and it now belongs to plaintiffs to present thereto, but defendants hinder them. Plea by *bishop*, that he claims no right but as ordinary. By *incumbent*, that he is *parson imparsonce* on the presentation of the present king, whose *title is deduced* from Car. 2. and that the church being vacant by the death of Dr. B. his present majesty presented the defendant, the incumbent; *without this*, that the plaintiffs were seised of the advowson as they have alledged. Replication to the plea of the bishop, but writ to the bishop to stay until the plea be determined between the plaintiffs and the incumbent. Issue is also taken upon incumbent's traverse and joinder, and *venire facias* awarded. Jury find a special verdict, - - -

2. & 3. Will. Rep. 468

Declaration in *quare impedit* at the suit of the king against the bishop of London and one Lancaster; states that the king is entitled *by reason of his prerogative*, and had presented to a vicarage at various times, and complains that the vicarage being now vacant, *he hinders* them, &c. Plea in abatement, craving *oyer* of the writ, shews a *variance* between that and the count. Demurrer and joinder, - - -

Lill. Ent. 342. to 344

Writ of error to the judges of assize for the county of York in *quare impedit* on a judgment against the archbishop of York and another defendant at the suit of the king. Return thereto. Transcript, stating judgment of *respondens ouster* for the king on demurrer to the declaration. Plea, that defendant is *parson imparsonce* on presentation of one Stevens. Admits that earl of Carlisle was seised *in gross*, and presented one W. D. who was admitted, &c. thereupon, and that the earl afterwards granted the next advowson to one T. S. who assigned to W. S. by whom defendant was presented, who thereupon was *instituted*, &c.; *traverses* the *simony* charged in the declaration. Replication, takes issue on the traverse. *Venire* awarded. Postea states a

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*challenge* of the array for want of hundredors. Demurrer to the challenge, and joinder. Judgment of *quassitur* upon the array, and *venire de novo* awarded. *Jurata*. Post a. *Tales*, and verdict finding the simony, and judgment for the king at the assizes, - - -

Lill. Ent. 344. to 346

Declaration in *quare impedit* by executors and devisees in trust, who entitle themselves to the advowson in question under the will of Caleb Lomax; whom the declaration states to have been seised in fee of the advowson, and to have presented on a former avoidance. Plea by defendant Edward Barker of four pleas; on the second and third issue is joined; the first plea states a title to the advowson in one Ellis, who presented in 1680, that Ellis conveyed it to Kalligiew; that K. devised it to his wife Lucy for her life, and that the reversion, on the death of K. descended to his three daughters in coparcenary; then states an avoidance during the life of Lucy the widow, and a presentation by Lomax, the father of the testator usurping on Lucy; then that the living became vacant after the death of Lucy by the *resignation* of the incumbent Romney, and that the crown by *usurpation* on the right of the eldest coparcener presented again the same clerk; then an avoidance by the death of that presentee, and another presentation on that avoidance by Lomax, usurping upon the right of the second coparcener. A title is then deduced at considerable length to the defendant from the second and third coparcener, concluding with a claim to present on the existent vacancy in the third term. Replication states a *purchase* by Lomax of the right of L. K. the widow, and a presentation of the advowson made by him during the life of Lucy on an avoidance then happening. A fine is then set forth levied by the three coparceners of the advowson, and a conveyance to Lomax under that fine. Having stated this title in behalf of the plaintiff in answer to the plea, the *replication concludes* that the resignation was fraudulent and without notice, and *traverses* that upon that resignation it belonged to the eldest coparcener to present. Rejoinder, *traverses* the fine. Special demurrer, *that it is a traverse upon a traverse*. (See this more fully indexed, post.) - - -

1. H. Bl. Rep. 376

Count in *quare impedit*, that one J. H. was seised of the undivided sixth parts of the rectory of C. and R. G. of the other parts as tenants in common, to which rectory the *nomination* to the curacy did belong. Curacy vacant. J. H. and R. G. nominate C. L. Fine *jur consuecance de droit conuec* levied to the use of J. H. in fee. Curacy augmented by queen Anne's bounty. J. H. grants to plaintiff right of nomination when vacant. Curacy void, by reason whereof, &c. Plea by clerk, that he is curate on the nomination of Geo. 1. and duly licensed. Geo. 1. seised of the perpetual curacy in *gross* as of fee, in right of his crown. Curacy vacant. H. D. presented by Geo. 1. and was duly licensed. Death of Geo. 1. Geo. 2. seised. Death of H. D. on

whose

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whose death T. H. and R. G. usurped on G. 2. and nominated C. L. Death of G. 2. G. 3. seized. Death of C. L. whereupon it belonged to the present king; *however* that nomination belonged to the king's issue. Replied that issue on the traverse,

1. H. Bl. Rep. 418

*quare impedit* to recover presentation of West Coker, in Somersetshire. Declaration states W.R. seized in fee. Presentation. Descent to nieces Jane and Mary in coparcenary. Their marriage. Husband of Jane dies, and she with the husband of Mary in right of Mary present. Descent to son of Jane, who together with Mary and her husband in her right present. Nathaniel Webb, executor of Jane, dies. Descent to his son Nathaniel. Mary Proctor dies, her share descended to her grandson Thomas, who became seized with Nathaniel. Church being vacant, they could not agree, and Nathaniel presents the said Thomas, as in the first term of Jane, who dies, and descent to Elizabeth Proctor his sister, who present as in the turn of Mary. Plea by ordinary as usual; by the other defendants, that Mary Proctor being seized, devised her right of presentation to the first or other son of her grandson that should be bred a clergyman and in holy orders, and in case of failure of issue, &c. to Thomas Moore in fee. That Thomas Proctor died without issue seized, &c.

2. H. Bl. Rep. 358

*quare impedit*. Plea in bar 21. H. 8. against plurality, taking two benefices, and entitles himself by lapse from the queen,

Pl. Gen. 485

*quare impedit* of the church of St. Andrew Wardrobe, St Ann, Blackfriars, and St. Andrew Wardrobe, were burnt by the fire of London 1666. The act for uniting several parish churches, particularly St. Ann's and St. Andrews, and St. Andrews Wardrobe to be the parish church. The patrons to present by turns, and who to present the first time. St. Andrews of greater value. At the time of the act J. G. seized in fee of Blackfriars, and C. 2. was *patron* of St. Andrew. At the time of the act J. C. was incumbent of St. Andrew Wardrobe, T. G. sells his advowson of Blackfriars to several of the inhabitants in fee. J. C. died, by which St. Andrew was first void after the act, and C. 2. presented J. S. who was instituted and inducted. Inhabitants of Blackfriars all dead but the plaintiffs. J. S. the king's incumbent, dies, whereby plaintiffs, as surviving grantees, ought to present,

1. Ld. Raym. 192

Count in *quare impedit* of the church of Bedal by the crown. States that Queen Eliz. was seized in fee of the advowson in *gross* of the church, and on the 14th of February, in the twelfth year of her reign, presented Tyms by her letters-patent, who was admitted, &c. The queen died seized of the advowson, which descended to Jac. 1. who was seized in fee. The church became void by the death of Tyms, and J. W. was presented by Jac. 1. 13th of July, 19. A. R. and admitted, &c. Jac. 1. died seized, and the advowson

descended

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descended to Car. 1. Church void by death of Wilfon. Car. 1. presented Dr. Wickham. J. Piers presented Metcalf by *usurpation*, admitted, &c. Car. 1. died seised, and advowson descended to Car. 2. Church void by death of M. Car. 2. presented Dr. Samways, admitted, &c. Car. 2. died seised, advowson descended to Jac. 1. who being seised, abdicated the realm, by which the advowson came to the now king and queen, who are seised, and the church void by death of Dr. Samways, whereupon it belongs to king and queen to present, *rit of error in quare impedit*. Return from C. B. to B. R. of the record of common pleas. Declaration by *executor* of the grantee of the next turn to present. States indenture of agreement between joint tenants to present by turns. *Profers*. First presentation avoidance by death; second presentation one moiety descends. Covenant to stand seised in consideration of blood of one moiety to the use of R. H. in ail, remainder in tail to R. H. Remainder to use of covenantor in fee. Descent in tail. Second descent in tail to R. H. who made a *grant* of the next avoidance to the testator, and F. S. their executors and assigns. T. S. one of the grantees of the turn, dies, and plaintiff's testator survives. Avoidance in testator's lifetime by death, and it belonged to testator to present, but defendants *hindered* him, who made his will, and plaintiff *executor*, who proved the will, and so it belongeth to plaintiff to present. Averment that grantor is living, and the identity of the church. *Profer* of the will. Plea, *parson imparsonae*, admits avoidance, and the *bishoprick* collated by lapse. Replication, admits the time of the avoidance, but says, that within the six months the testator by writing presented J. S. and requested the bishop to admit him, who refused. Rejoinder, admits the presentation, but says, that J. S. took it away, and desired him to prepare himself for examination, and never came again to be examined, so the bishop collated J. S. the other defendant, and *traverses* that he refused to admit. Surrejoinder, and issue upon the traverse. *Venire facias*. *Non misit breve*. *Nisi prius*. *Postea*. Returned verdict, that the bishop *refused to admit* J. S. upon the plaintiff's testator's presentation, and that the church is full of the collation of the bishop, and is of the yearly value of one hundred pounds; costs forty shillings. Judgment and writ awarded to the archbishop. Mercy. Errors assigned. Diminution alleged. *Certiorari* to *custos brevium* of C. B. to search for and send the original to B. R. Original writ and return. *Billon*. Pledges. Summoners. Same errors as before. Plea, *in nullo*, &c. and prays judgment may be affirmed, and judgment was affirmed, sent in *quare impedit*. States that plaintiffs are *executors*, and devisees in trust by the will of C. L. esquire, that C. L. was seised in fee of the advowson *in gross*, and presented one D. B. his clerk, who was admitted in the reign of Geo. 2.

1. Ld. Raym. 293

*Ibid.* 534

That

That C. devised to plaintiffs till his son should attain twenty five years, or die with remainders over; that C. L. died without altering his will, his son being then alive and under twenty-five years, whereby plaintiffs became seised. That the son C. L. is under twenty-two, by reason whereof it belongs to plaintiff to present. Plea by bishop, the usual plea. By B. the clerk, that *he did not hinder*; by defendant, first, that J. E. was seised in fee of the advowson, and presented T. P. his clerk, and devised to R. his wife for life, remainder to his son J. E. in tail male. That he died. That R. the wife was seised for her life, and died. That J. E. was seised in tail male, and suffered a common recovery of the advowson to the use of himself in fee. That J. E. and his wife levied a fine to the use of H. K. in fee. Church vacant by death of P. lapse to Will. 3. who presented J. F. Devise by H. K. to L. his wife for life. Death of H. K. without issue male. L. tenant for life. Reversion descended to three daughters of H. K. L. M. and J. in coparcenary. M. married E. B. defendant's grandfather. Church vacant by death of F. C. L. presented John Romney by *usurpation* on L. K. the mother. Her death. J. C. husband of L. the *eldest* daughter seised in her right of one *third* of the advowson. E. B. the grandfather, and M. his wife, seised of another *third*, and J. K. seised of the remaining third. Church vacant by *resignation* of Romney. First avoidance after the death of *the mother*, because they did not agree to present, and that it belonged to J. C. husband of the *eldest* daughter, to present. Geo. 2. *usurping* on him, presented Romney. Devise of *third* part by J. K. to trustees, for such uses as M. B. notwithstanding her coverture, should appoint, remainder in trust for E. B. her son, *the father of the defendant*, in tail general. Death of J. K. and of M. B. E. B. the grandfather, her husband, becomes *tenant by the curtesy* of her third part, reversion thereof descended to E. B. the father, son of M. E. B. the father seised of J. K.'s *third* part in tail general. Church vacant by death of Romney. Second avoidance after the death of L. the mother. During the vacancy E. B. the grandfather died, having made will and appointed executors. E. B. father seised in fee of his mother *Mary's third* part, and in tail of his aunt Judith. Presentation belonged to executors of E. B. the grandfather, C. L. by *usurpation* on them presented Bellamy. E. B. father, suffered a common recovery of the *two third* parts of M. B. and J. K. to the use of himself in fee. Conveyance by E. B. father of the same, to trustees to the use of himself for life, remainder to preserve contingent remainders, remainder to the use of Ann his wife for life, remainder to the use of their children in such manner as E. B. father should appoint. Appointment by E. B. father of the said *two third* parts, to the use of E. B. his son, *the defendant* in fee, by virtue of which E. B. the defendant became seised of the reversion. Death of fa-

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ther. Ann seized for life. Conveyance by her and E. B. defendant to a trustee to the use of E. B. in fee. Death of Bellamy. *Third avoidance.* 2d Plea, that after the death of L. K. the mother (as first plea) devise by H. K. to his daughters as *tenants in common*. Death of J. C. L. leaving three daughters, L. M. and J. L. K. the mother, seized for life by settlement made on the marriage of C. L. with L. the daughter. Reversion of the said part of avowson belonging to L. the daughter, granted to the use of L. the mother for life, remainder to J. C. L. in remainder to L. the daughter for life, remainder to the use of the said L. the daughter, &c. Marriage took effect. Marriage between M. the daughter and E. B. the grandfather. Death of Fotherpill. *Usurpation of C. L. on L. the mother, by presenting Romney.* Death of L. the mother. *Resignation of Romney.* *Usurpation of Geo. 1. by presenting Romney, as first plea, only stating daughters tenants in common.* 3d Plea, similar, stating descent to daughters of H. K. in coparcenary, and that on Romney's *resignation* J. C. E. B. the grandfather, and J. K. did not agree, &c. but concludes with a *traverse* that C. L. the father, deceased, was in his lifetime seized. 4th Plea, similar to first as far as resignation of Romney, but states Romney's resignation to be fraudulent, *with notice* to the coparceners. Goes on to the death. E. B. the grandfather, &c. being seized, because the said J. C. E. B. the grandfather, and E. B. the father, did not *in the lifetime* of the said E. B. grandfather, and the said J. C. E. R. A. R. and J. W. and E. B. the father did not, *after the death*, &c. agree. One C. L. *usurped* on the said J. C. to whom the right belonged, and presented one D. Bellamy. Replication, that after the death of H. K. L. K. the mother granted the first presentation to C. L. the grandfather of C. L. in the declaration mentioned. Death of Fotherpill. C. L. the grandfather, presented Romney. Death of L. the mother. Fraudulent resignation of Romney *without notice* to the coparceners. Usurpation of Geo. 2. by presenting Romney, by which fraudulent resignation of R. the coparceners were prevented from agreeing to present. Fine levied by the coparceners *sur consance de droit comece*, &c. to the use of C. L. the grandfather, in fee. His death, and of Romney, *traverses that on the resignation of Romney it belonged to J. C. to present*, &c. To the 2d Plea, that after the death of H. K. L. the mother granted the next presentation to C. L. the grandfather. Church vacant. C. L. the grandfather presented Romney. Death of L. the mother. Coparcener seized. Fraudulent resignation of Romney. Fine levied by all coparceners, *sur consance*, &c. to the use of C. L. the grandfather in fee. His death. Descend to G. L. the father. Church vacant by the death of Romney. C. L. the father presented Bellamy; *traverses the devise of H. K. to his daughters as tenants in common.* To the 3d Plea, *issue on the*

*traverse*

*traverse* of C. L. the father being seised. General demurrer to the 4th Plea, and joinder. Rejoinder to the first replication, protesting against the *sufficiency* of the replication, denies that there was any record supposed to be levied by J. C. E. B. the grandfather, and M. his wife, and J. K. to the use of C. L. the grandfather, and of this the said E. B. puts himself upon the record. To the 2d replication, takes issue on the traverse of the devise of H. K. to the heirs male of his body, and for want of such issue to his daughters. To the 3d replication, issue on the traverse. Joinder in demurrer to the 4th Plea. Surrejoinder. Special demurrer to the rejoinder to first replication, for that plaintiffs traversed a material and issuable point, and so tendered a material issue, but the defendant hath not taken issue upon that traverse, or joined in issue with them thereupon, but hath passed by and taken no notice thereof, and hath denied another part of the said replication, and hath attempted to put another point in issue; and that the said rejoinder concludes with putting himself upon the record, which is *inconsistent* with the allegation that there is no such record, whereas the said defendant ought to have concluded his said rejoinder by offering to verify the negative allegation. Issue joined on the rejoinder to the 2d replication.

Joinder in demurrer, - - - 1. H. Bl. Rep. 376 to 400  
Verdict for plaintiff in *quare impedit*, - - - Lill. Ent. 517  
Writ to the bishop to remove the present clerk, and to admit the clerk of the plaintiffs in *quare impedit*, - - - *Ibid.* 531  
Writ to bishop after judgment to admit a clerk to enquire if the prebend be void or not, and the yearly value of it, - - - *Ibid.* 531

Advowson of a church, 1. *Bro.* 295. 297. *Br. R.* 407. 2. *Bro.* 216. *Wi. Ent.* 625. 628. 2. *Lut.* 1078. *Bro. Vad.* 304. 330. 352. 357. 361. 367. *Ra.* 497. *Co. Ent.* 479. *Reg.* 30. Church of T. otherwise T. St. M. *Wi. Ent.* 766. 3. *Lut.* 12. Of St. M. *Ra.* 514. Of D. in M. *Wi. Ent.* 771. Of St. M. being *hospitalis*, *Ra.* 506. *Vet. Int.* 509. Of St. P. of O. *Ra.* 517. *Vet. Int.* 130. Two parts of a church, *Wi. Ent.* 715. *Ra.* 520. 5. *Co.* 102. 10. *Co.* 136. Third part, *Clif.* 602. *F. N. Br.* 139. 10. *Co.* 135. Fourth part, *Wi. Ent.* 628. *Clif.* 606. 2. *Lut.* 1123. Of advowson of a church, or moiety of the advowson, *Wi. Ent.* 750. *Bro. R.* 407. *Co. Ent.* 491. *Bro. Vad.* 323. *F. N. Br.* 33. 5. *Co.* 102. 10. *Co.* 135. Of a vicarage. 1. *Bro.* 199. 2. *Bro.* 222. 225. *Wi. Ent.* 623. 691. *Lew. Ent.* 144. *Clif.* 607. *Ra.* 522. 524. 530. *Co. Ent.* 520. *Reg.* 31. *Her.* 553. Of B. on the Green, *Wi. Ent.* 778. By grant made to plaintiff by defendant, *Ra.* 522. Of St. H. near the Mount of St. M. 18. *E.* 3. 10. Chapel, *Ra.* 502. Chauntry, *Ibid.* 499. *Reg.* 31. *F. N. Br.* 33. *Vet. Int.* 132. Long. 5. 56. Abbey, *Ra.* 496. *F. N. Br.* 33. *Vet. Int.* 71. Priory, *F. N. Br.* 33. In the marches of Wales, *Her.* 5. 5. *Pl. Gen.* 474. Church there, *Ibid.* Deanery, *Reg. Jud.* 80. Archdeanry, *Wi. Ent.* 791. *Ra.* 531. 1. *An.* 241. Prebend, *Pl. Gen.* 482. *Ra.* 522. 528. 530. *Co. Ent.* 507. *Reg.* 30. *Dig.* 164. 18. *E.* 3. 29. 24. *E.* 3. 34. 40. *E.* 3. 17. 41. *E.* 3. 5. *R.* 2. 79. *Vet. Int.* 130. Canonry and prebend, *Ra.* 503. *Hospitalis*, *Ra.* 531. *F. N. Br.* 33. Vicarage, *F. N. Br.* 34.

ADVOWSON APPENDANT, AND IN CROSS.

Of advowson of a church belonging to a manor, *Bro. R.* 411. *Clif.* 602. 1. *Bro.* 297. 2. *Bro.* 201. *Wi. Ent.* 625. 633. 646. 723. *Pl. Gen.* 472. 469. 484. 473. 2. *Lut.* 1125. Third part of advowson appurtenant to one manor, third to another, and remaining third to another, *Ibid.* 1091. Belonging to the moiety of a manor, *Pl. Gen.* 475. For four parts of an advowson belonging to one manor, and fifth to another, *Wi. Ent.* 650. Fourth part of advowson, that is to *present in the fourth turn* belonging to the fourth part of a manor, *Ibid.* 628. Advowson belonging to one acre, *Ibid.* 766. Of a *vicarage* belonging to the manor, *Ibid.* 691. To the rectory, 2. *Bro.* 223. *Wi. Ent.* 623. 786. Advowson in gross, 1. *Bro.* 296. 299. 2. *Bro.* 220. *Wi. Ent.* 665. 696. 751. 769.

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By the king generally, *Wi. Ent.* 751. *Reg.* 30. *F. N. Br.* 32. On a lapse, *Wi. Ent.* 707. *Bro. Vad.* 367. By wardship of land and heir, *Wi. Ent.* 765. *Reg.* 30. *F. N. Br.* 32. By force of the statute against simony, *Wi. Ent.* 711. *Bro. R.* 409. 2. *Bro.* 220. 3. *Lev.* 12. &c. *Bro. Vad.* 304. By the king and others, *Reg.* 30. *F. N. Br.* 32. By bishop, *Pl. Gen.* 474. By husband and wife, *Wi. Ent.* 759. *Bro. Vad.* 361. *Ra.* 515. *Co. Ent.* 491. 5. *Co.* 57. *Vet. Int.* 27. By executor, *Wi. Ent.* 658. *Br.* 315. 1. *And.* 241. By husband and wife executrix, *Co. Ent.* 477. *Wi. Ent.* 769. Administratrix, *Ibid.* 797. Administrator de bonis non, *Ibid.* 750. By chancellor, master, and scholars of university, *Ibid.* 625. 771. Dean and chapter, *Ibid.* 623. 785. By grantees of the next avoidance, *Bro. R.* 407. Since the last settlement by fine, *Ibid.* 411. By chapter, *Ra.* 500. *Vet. Int.* 530. By tenant by the curtesy, and husband and wife coheirs, *Co.* 518. By warden of a Hall, *Ra.* 499. By governors and trustees of inheritance of the church, *Co.* 518.

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KING SEISED.

The king of advowson grants to T. who granted to J. in tail; descent to son within age, on whom the king seised after inquisition and presented twice, and afterwards granted livery to the heir, from whom it descended to another within age, on whom the king seised, *Co. Ent.* 493.

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BY THE KING ON LAPSE, AND BY STATUTE OF PLURALITIES.

By the king on lapse, *Wi. Ent.* 709. *Co. Ent.* 520.

By the king on lapse on statute of pluralities. Plea, that by a clause in the statute to retain chaplains, and that the baroness took defendant for her chaplain, and *traverses the avoidance* of church by taking another benefice. Replication, that the baroness took husband; *per quod* her power to have a chaplain ceased. Demurrer, *Co. Ent.* 512. Like plea without a traverse. Replication, that baron, before retaining defendant, had the full number of chaplains. Rejoinder, that one of them was discharged before the retainer of defendant. Demurrer, *Co. Ent.* 514.

That the rector of a moiety of the church took another moiety, and that the first moiety was void by statute, and by *lapse* came to Elizabeth, and from her to James, and *traverses* that the church was void by death, *Co. Ent.* 492.

The king on a lapse after an avoidance by the statute of pluralities, and neglect of the patron and ordinary, &c. to present, *Bro. Vad.* 367. 2. *Lut.* 1083.

By

By the king on the statute of pluralities, 2. *Lut.* 1078.

By the queen on 21. H. 8. 13. of pluralities. That M. E. bishop of Lincoln, was seised of the advowson of C. and collated G. G. and G. being qualified accepts H. and after accepts W. and that church was void, and continued so for two years, and so belonged, &c. 2. *Lut.* 1083.

FOR SIMONY.

By the king on statute against simony, on an agreement to give his patron's friend yearly twenty pounds for life, 2. *Bro.* 220. 2. *Lut.* 1090.

Where the church becomes void by the statute of pluralities, and afterwards by corrupt and simoniacal agreement between patron and incumbent the church became again void, *per quod* for this turn it belonged to the king to present, 2. *Bro.* 216. On agreement to give the patron fifty pounds for next avoidance, *Wi. Ent.* 711. To give patrons sister fifty-three pounds, 3. *Lew.* 12. Patron's mother two hundred and fifty pounds, 2. *Lut.* 1086. To give patron three hundred pounds, and to receive the tithes for the next year, *Bro. Vad.* 304. 32. 2. *Inst. Cl.* 413.

By the king against the bishop, patron, and incumbent, upon a simoniacal contract, whereby the incumbent gave the patron one hundred pounds and two coach horses of fifty pounds price to be presented to the living, *Bro. Vad.* 373. On a simoniacal contract, whereby the incumbent was to give the guardian of the patron two hundred and fifty pounds, *Clif.* 609. 625.

By the king on statute of simony, on agreement to give the patron's friend a bond to demise to him the advowson from three years to three years during life. Plea, that the patron *pure*, &c. presented clerk, and traverses simony, *Co. Ent.* 516.

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Declaration by attorney general after default upon a *disfringas* upon the statute of simony against patron and incumbent and the bishop in L. in the *finis cum*. *Bro. Vad.* 304. After *disfringas* and default by defendant, attorney-general sets forth the king's title, *Ibid.* 367.

Declaration upon the act of union of parishes in London, *Lew. Ent.* 141, &c. Declaration founded on the statute 12. Car. 2. *Clif.* 604. Against the bishop of L. and bishop of A. commissioners to exercise the jurisdiction and office of bishop in and over the diocese of N. *Bro. Vad.* 620.

That defendants, together with E. B. T. D. and R. G. permitted J. P. knight and others *ad respondendum* notary public to present, &c. *Clif.* 606.

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King Henry 7. seized of advowson *in gross* in right of the duchy of Lancaster, presented. Descend to Jac. to whom it now belongs to present to the vacancy, *Wi. Ent.* 751. *Ra.* 528. *Vet. Int.* 26. *Co. Ent.* 514. 1. *Ra. Ent.* 528. *Vet. Int.* 26.

By the king, by reason of wardship of land and heir, where T. seized of the manor, *ad quod*, &c. held *in capite* presented, and afterwards died, and the manor descended to the son within age, which the king seized after inquisition found. Church vacant by deprivation of the clerk for not reading articles of religion, *per quod* it belonged to the king to present, *Ibid* 765.

By the king, against the bishops of London and Lancaster, sets forth, that the bishop of London, seized of the advowson *in gross* of saint M. collates L. who was bishop of Exon, whereby it pertained to the king to present, who presented D. 1. who was created bishop of Saint A. and so it belongs to the king to present, *Law. Ent.* 144.

King Richard 2. seized of an advowson, presented, and after *se aimfit de reirmeine*, *per quod* the advowson came to Henry 4. and descended to Henry 5. who presented and descended to Henry 6. who ought to present, *Ra.* 528.

### WHERE ABBOT SEISED.

Abbot, seized of an advowson that came to Henry 8. by statute of dissolution, and descended to Edward 6. who granted it to the duke of Somerset, by which attainder it came to the same king, and descended to Elizabeth, who ought to present, *Co. Ent.* 471.

Abbot, seized of an advowson, presented. Presentation by usurpation. Surrender of the monastery to Henry 8. and by statute of dissolution it descended to Elizabeth. Plea that the abbot devised the advowson for years, and another abbot devised for years in reversion to A. who devised to B. who assigned to defendant, and traverses usurpation, *Co. Ent.* 509. Abbot, seized of advowson in gross, presented and died. His successor granted next advowson to T. who is outlawed in account, *Ra.* 430. *Vet. Int.* 110.

### BISHOP SEISED—FROM SEIZED.

Bishop, seized of advowson of prebend, collated to it, and afterwards the temporalities of the bishop came to the king by *translation* of the bishop, and the right to present is now in the king, *Ra.* 530. 21. E. 3. 5.

Archbishop, seized of advowson of the prebend, and afterwards the pope provided to it, which was afterwards vacant till the temporalities of the archbishoprick came to the king, *Ra.* 520.

Archbishop, seized of the advowson of a prebend, collated to it, and afterwards it became vacant by the election of the prebendary to be dean, *per quod* the bishop collated and died, and another was elected, and prebend became vacant till the temporalities of the bishop came to the king by translation, *Vet. Int.* 130.

Of the archdeacon, where bishop died and another consecrated, and afterwards the archdeaconry vacant, and the temporalities of the bishop are in the king's hands, *Ra.* 522. *Vet. Int.* 132.

Prior,

Prior seised of advowson presented, and church void till the temporalities of the priory, which is the *cella* of the abbey, come to the king's hands, *Ra.* 530. *Ver. Int.* 132.

Of the priory of an alien whose temporalities come into the king's hands by reason of a war with France, *Ra.* 530.

Bishop seised of an advowson *collated* to it, and church vacant till the temporalities of the bishoprick by the death of the bishop come to the king's hands, *Ra.* 531.

## SEISIN OF OTHERS.

By the king, by reason of wardship of land and heir, where T. seised of two manors and one advowson *in gross* held *in capite*, presented and afterwards died, and the manors and advowson descended to his son within age, and the king seised them, *Ra.* 528.

P. seised of a manor and advowson held *in capite*, gave to J. in fee, who granted in tail to husband and wife, from whom it descended to B. who presented, and from him by divers descents came to W. within age, *Ra.* 529.

W. seised of an advowson presented, which descended to E. and from him to J. within age, and in the ward of the king, for that E. held the lands *in capite*. Plea, that E. held nothing of the king on the day he died. And writ to the bishop says, that E. held lands of defendant by knight service, who seised them in the minority of the heir. Replication, that he held of the king, *Ra.* 529.

E. seised of a manor *ad quod*, &c. he presented and enfeoffed S. who died seised. Manor given to E. 6. by act of parliament, from whom it descended to Mary. W. granted to E. *in capite*. E. devised two parts, and third part descended to the son within age, and after inquisition queen Mary, and descent to Elizabeth, *Her.* 551.

Plea, that M. presented to the church whose advowson he held of H. as gross, and not of the king *in capite* as belonging to the manor, *U. 4. E. 3. 3*

W. seised of several manors, lands, and advowson, part held *in capite*, presented after his death: lands and advowson were assigned to widow for dower, who presented. Descent from R. and from him to H. and from him to two cousins within age. Plea, that the advowson is belonging to the manor held of the king as of an honour and not from the crown. And another manor held *in socage*, and traverses that predecessors held any thing of the king as of his crown, that the moiety of the manor and advowson was assigned, and that the mother of the heir within age sued a writ *ad rem d. m. writ curiam*, and inquisition thereon. That the manors, &c. were held as above, and delivery thereon out of chancery. And defendant, father of the other heir within age, presented in the name of the heir before seizure of the manors into the king's hands, and defendant sued out *like writ*, and inquisition thereon found *tenure in socage*, *Ra.* 529.

A. seised of land, and advowson held *in capite* presented, and afterwards aliened the same to prior, king's licence not obtained, *per quod* it belongs now to the king to present to the vacancy, *Ra.* 530.

## GRANTEES OF THE KING.

King Edw. 6. seised of a manor *ad quod*, &c. granted manor of J. to lord A. in tail, descent to G. within age. Queen Elizabeth seised after inquisition, and presented, and afterwards granted tithes to the heir, from whom descent to plaintiff. Bishop says nothing, *W. 1. Ent.* 748.

Queen Elizabeth seised of advowson *in gross* presented and granted to E. in fee, who granted to Z. who granted to B. who granted next avoidance to plaintiff, *W. 1. Ent.* 778.

Abbot, seised of rectory, to which advowson of a vicarage was appendant, demised to J. and wife for eighty three years. Rectory by surrender of the abbot, and statute of dissolutions came to H. S. who granted reversion to plaintiff in fee. J. died,

- died, and wife survived who presented, and afterwards made his will, and H. executor, who surrendered the term to plaintiff. By the dean and chapter.
- Queen Elizabeth, seised of advowson *in gross*, presented W. P. W. accepts another benefice, and thereby the church became void by the statute of pluralities, and the queen presented the said W. P. and before his *admission* granted the advowson to Sir C. H. in fee. Sir C. grants to A. S. in fee. W. P. is *inducted*. Sir W. S. dies seised. Advowson descends to W. S. his son, who grants to H. lord D. the next avoidance, who grants to plaintiff. W. P. incumbent dies, and it belongs to plaintiff to present, *Bro. Vad.* 336.
- Declaration for vicarage *in gross* that came to the king by dissolution, and granted to plaintiff by letters patent, 2. *Inst. Cl.* 410.
- By the heir of a coparcener by descent on the king's grant, 2. *Lut.* 1118.
- Charles 1. seised of manor to which advowson was *appendant*, granted to his queen, she presented. Manor descended to Charles 2. who granted to plaintiff, to whom it belongs to present to the vacancy, *Pl. Gen.* 469.
- Edward 6. seised of manor and advowson *appurtenant*, granted next avoidance to E. and R. to present N. They presented, and afterwards granted advowson to duke of S. in fee, who granted to plaintiff, *Pl. Gen.* 472.
- Prior seised of advowson *in gross* present, advowson come to Henry 8. by statute of dissolutions, who granted to plaintiff for life, *Pl. Gen.* 431.
- The king granted to T. duke of N. the goods of felons, fugitives, and outlaws within the rape of B. The duke of N. demised to T. who made plaintiff executor. W. seised of the manor to which, &c. within the rape, granted next avoidance to C. who is outlawed on judgment in debt. Church void. Plaintiff, as executor of J. claims to present, *Wi. Ent.* 658.
- Henry 8. seised of advowson *in gross*, granted next avoidance to duke of S. who presented. Descent to Jac. who granted in fee to M. who granted to P. and by him to plaintiff, *Wi. Ent.* 665.
- J. seised of manor to which, &c. presented, and is *attainted* of treason by which the manor to which, &c. came to Charles 2. grant by him to lord B. by him to T. by him to plaintiff, and by 12. Charles 2. for confirmation and restoration of the clergy, every clergyman having two benefices should hold one only at his election. The incumbent had then two (B. and K.); made election of K. and church of B. became void, and belongs to plaintiff to present, *Ibid.* 722.
- Abbot, seised of advowson *in gross*, granted next advowson to R. and it came to Henry 8. by statute of dissolutions. R. presented. Descent to Edward 6. Grant by him to E. lord C. and by several grants came to plaintiff, and by resignation of last incumbent it belongs to plaintiff to present, *Ibid.* 726. *Co. Ent.* 508.
- R. seised of advowson *in gross* presented. Descent to W. the son, who became popish recusant by inquisition on the act of 3. Jac. 10. seised into his hand (*inter alios*) the advowson granted to C. *Ibid.*
- Edward 6. seised of advowson *in gross* presented. Descent to queen Mary. Grant by her to former plaintiff in fee. descent to present plaintiff, *Ra.* 497. *Pls.* 493.
- Henry 6. seised of a priory abroad whereof advowson was parcel, presented and was deposed. Grant by Edward 4. to chapter in fee, *Ra.* 500. *Vet. Int.* 130.
- The king, seised of advowson, presented and granted next avoidance to plaintiff, *Ra.* 523.
- Abbot, seised of manor to which, &c. presented and surrendered to Henry 8. Grant by him to plaintiff in fee. *Ra.* 525.
- Henry 8. seised of advowson, presented advowson, descent to queen Elizabeth. Grant by her in fee to J. Grant by him to plaintiff, 531.
- Abbot, seised of advowson, presented and granted next avoidance. Advowson came to Henry 8. by statute of dissolutions. Descent to Edward 6. Grant by him to E. By him to plaintiff, *Co. Ent.* 508.

DECLARATION IN QUARE IMPEDIT UPON TITLE.

W. lord Petre seised in fee of the manor to which, &c. presented B. Descent to J. brother and heir of W. lord Petre. Descent to T. his brother and heir and plaintiff, and being seised and church vacant by death of B. it belongs to plaintiff to present, 2. *Lut.* 1100.

Plaintiff seised of advowson of vicarage in gross presented, and it belongs now to him to present to the vacancy, 2. *Bro.* 225. *Wi. Ent.* 748. Of advowson, *Wi. Ent.* 696. 703. 2. *Lut. Ent.* 1094. In gross, *Her.* 555. *Ra.* 508. 511.

The grandfather seised of a manor to which, &c. advowson of vicarage was appendant presented, and the manor descended to plaintiff as the son and the eldest son of his grandfather, *Wi. Ent.* 691. *Hob.* 327.

The grandfather seised of manor to which, &c. and covenants to stand seised in tail. Descent to plaintiff heir in tail as son of the son to return, it belongs, &c. *Wi. Ent.* 782.

By tenant in tail of a moiety of an advowson in gross upon avoidance by the death of the last incumbent, *Bro. Vad.* 323.

J. W. esquire, seised of advowson in gross of the vicarage of O. in fee, presents J. W. clerk, and afterwards J. W. clerk, levied a fine to the use of J. O. J. R. and F. C. and their heirs in fee, who bargained and sold to plaintiff in fee. W. C. clerk, accepts another benefice, and the vicarage being of the yearly value of eight pounds became void by act of pluralities, and therefore belonged to plaintiff to present, *Bro. Vad.* 344.

H. S. esquire, being seised in fee of the fourth part of an advowson in gross of the church of R. grants to H. S. gentleman, and R. H. to the use of himself and G. his wife for lives. Remainder in tail to him and his heirs. H. S. had issue. F. S. who was seised in tail. H. S. and G. his wife die. F. S. being seised of fourth part, and sir R. C. and G. N. of the other three parts. Fine levied of the other three parts to the use of F. S. in fee. F. S. so seised presented F. S. clerk, and afterwards granted next presentation to plaintiff, and therefore, &c. *Bro. Vad.* 352.

Sir T. M. seised in fee of advowson in gross of the church of W. the church became void by resignation of incumbent, and continued for eighteen months and upwards, whereupon the queen presented by lapse R. P. Afterwards sir T. M. granted to sir A. E. H. W. and T. H. to the use of the plaintiff and E. his wife, and his heirs by her. Remainder to the heirs of his body. Remainder to his right heirs in fee, by virtue of such grant and statute of uses. Plaintiff was seised in tail, and church void by the death of R. P. plaintiff ought to present, *Bro. Vad.* 357.

J. seised of rectory to which advowson of vicarage belonged, church full, granted next avoidance to T. who presented J. enfeoffed S. of the rectory. Grant by him to next avoidance of W. by him to E. who died intestate. Administrator granted to M. who granted to plaintiff, 2. *Bro.* 223.

Prior seised of a warren in gross presented, and granted next presentation to C. and the next presentation after to D. and afterwards granted the advowson of church of W. for ninety-nine years. C. and D. severally present according to their respective grant. W. makes A. executor, who presented. A makes S. his wife executrix, who took T. to husband, and he in right of his wife presented. The wife survived, and granted to E. and he granted next avoidance to plaintiff, *Ibid.* 223.

Bishop, seised of the advowson of vicarage in gross in the marches of Wales, presented, and it now belongs to plaintiff his successor to present to the vacancy, *Pl. Gen.* 474. Dean and chapter seised of rectory to which advowson of the vicarage belongs, presented, and it now belongs to them to present to the vacancy, *Wi. Ent.* 623.

Bishop, seised of advowson of prebend, collated to it, and granted next avoidance to plaintiff, *Pl. Gen.* 482. *Ra.* 512.

R. seised

# INDEX TO LEADING TITLES OR HEADS

- R. seised of a manor to which, &c. presented. Descent to W. his son, who was *popish recusant*, and university of Oxford claims to have presentation by 3. Jác. *Wi. Ent.* 625. 771. *Wi. Rep.* 11.
- W. seised of a *parish* to which advowson of vicarage belonged (being vacant by deprivation) suffered a *lapse*, and chapter having ordinary jurisdiction collated the clerk. W. died, and another prebendary inducted, and demised to plaintiff for three lives, to whom it belonged to present. Plea, that he did not demise. Special verdict. Judgment for defendant, *Wi. Ent.* 700. *Hob.* 303.
- Bishop, seised of advowson of archdeaconry, collated to it and died. Another is collated, who in the vacancy of the archdeaconry granted next avoidance thereof to W. who made his executor, and the queen presented by *lapse*, and by several grants the next presentation came to plaintiff, to whom, &c. *Wi. Ent.* 791.
- J. seised of a manor, to which, &c. covenanted to stand seised to his own use and his wife's for life. Remainder in tail, and presented the wife. Tenant for life presented R. Issue in tail levied a fine, and demised advowson to T. and F. for twenty-one years to the use of R. his wife and died. T. and F. assign their interest in the term to M. who granted the residue of the term to plaintiff to whom, &c. 2. *Bro.* 201.
- R. seised of manor, to which, &c. presented (and granted next advowson) to plaintiff, *Pl. Gen.* 484. And it now belongs to plaintiff to present to the vacancy, *Co. Ent.* 407. *Ro.* 503.
- T. S. seised of advowson in *gross*, presented B. and afterwards devised to plaintiff C. and church being void by death of B. continued so upwards of six months. Lord bishop as ordinary collated by *lapse* R. S. and afterwards plaintiff intermarried. Church void by death of R. S. whereupon plaintiffs ought to present, *Bro. Vad.* 361.
- R. W. senior, seised of advowson in *gross*, presented R. C. who died, and the right of presentation devolved by *lapse* to the king, who presented D. A. R. W. dies seised, and descent to plaintiff as cousin and heir. D. A. dies, plaintiff ought to present, *Bro. Vad.* 370.
- Plaintiff, seised of advowson in *gross*, presented one R. S. his clerk, who died, and bishop and the other defendant T. hinder him from presenting another clerk, *Ibid.* 376. *Mo. Ent.* 289.
- Infant *maier* by next friend declares that W. H. seised of advowson in *gross*, presented E. H. clerk. W. H. died and descent to said E. H. the incumbent as son and heir. Death of E. H. Church vacant. Descent to plaintiff as cousin and heir of E. &c. *Lev. Ent.* 138.
- E. R. seised in fee of manor of O. to which, &c. by his will devised it to M. his wife for life. Remainder to C. R. in fee. Incumbent died. He presented C. R. and dies. Death of C. R. Church void. Descent of the manor to C. R. his son and heir. Bishop by *lapse* collates to said C. R. the son. The said C. R. by lease and release conveys the manor to one M. in fee. M. conveys to plaintiff in fee. Church void by death of C. the son, *per quod*, &c. 2. *Lut.* 1125.
- By the *grantee* of the next avoidance of advowson of vicarage in *gross*, 1. *Bro.* 209. 2. *Inst. Cl.* 412. After partition, *Co. Ent.* 490. Of advowson in *gross*, 1. *Co. Ent.* 633. 742. *Clif.* 614. By surviving grantee, *Ibid.* 605. 2. *Mo. Ent.* 288. *Bro. Mut.* 337. &c. Like by *assignee*, and counts that E. seised of a manor to which, &c. granted next avoidance to R. and afterwards sold the manor, &c. M. enfeoffed O. who enfeoffed G. who granted next avoidance to B. Church void. R. presented. Descent of manor to defendant the son of G. administrator of B. Assigns next avoidance to plaintiff, to whom, &c. *Wi. Ent.* 646. *Assignment of grant* of next avoidance made by a prebendary who was seised of advowson of the church in right of his prebend, *Ibid.* 743. By *assignee* of next avoidance, *Co. Ent.* 481.
- By *husband and wife*, executrix of grantee of next avoidance in turn of coheirs, *Co. Ent.* 477.

By grantee of *devisee* of next avoidance, where A. seised of one acre in T. to which advowson of the church was appendant, granted next avoidance to W. who presented his clerk, who was created a bishop, and the king granted bishop licence to retain *in commendam* for six years. A. bequeathed next avoidance to J. who granted to plaintiff. The king after six years by *prerogative* presented, and church now belongs to plaintiff to present, *Wi. Ent.* 766.

By *survivor* of lessee of advowson of vicarage on demise for sixty years determinable on one life, *Ind.* 752.

By *husband* and *wife*, devisee of advowson *in gross* in fee, *Tbo.* 769. *Wi. Rep.* 73.

W. seised of a manor, to which, &c. granted next avoidance to G. who presented, and afterwards demise the manor, with the *appurtenances*, to plaintiff for years, *to whom*, &c. *Wi. Ent.* 774.

By administrator, where the grandfather of the intestate was seised of the advowson *in gross*. Descent to R. within age, on whom W. *usurped*. R. died, and the right of advowson descended to A. who whilst church was void died intestate, and administration within six months after the death of the incumbent was committed to plaintiff's wife of A. *per quod*, &c. *Wi. Ent.* 797. Judgment for plaintiff, *41. R. p.* 35. 39.

R. L. gentleman, seised of manor of P. to which advowson of P. belonged, levied a fine to use of R. L. his son, and M. his wife, and heir of the said R. L. the son presented E. L. his clerk, and died. And said M. survived him, and was seised for life, and reversion of said manor to which, &c. descended to M. L. spinster, daughter and heir of R. L. son. The widow M. took to husband C. E. and they C. and M. granted the next avoidance to T. N. who presented B. A. and M. L. the daughter took to husband T. C. clerk, M. the wife of C. died. T. C. and wife entered into the manor *ad quod*, &c. and granted to plaintiff next avoidance. Church void, *per quod*, &c. with averment of lives of grantees, *Br. R.* 411.

A. seised of manor, to which, &c. and of another manor, descent to three daughters within age, and in wardship of the king. They took husbands, and severally sued out livery, two died, and two of plaintiff's are *tenant by the curtesy*, *Br. R.* 518.

T. seised of manor, to which, &c. held *in capite* by the king's licence gave in tail to R. Descent to J. who presented. Descent to H. within age, after inquisition in wardship of the king who granted wardship to E. who presented. H. died without issue. Manor descended to his sister, to whom granted livery, *Her.* 557.

C. seised of a manor, to which, &c. held *in capite* king's licence obtained gave it to two in fee, who gave in tail to husband and wife, from whom it descended to L. and from him to plaintiff, *Ra.* 532. T. seised, &c. gave in tail, after many descents came to plaintiff, *Ibid.* J. seised of advowson *in gross*, levied a fine with *renewal* in tail, and descent to plaintiff, *Ibid.*

A. seised of manor, to which, &c. levied a fine to R. in tail. Descent to four daughters, who make partition thereof, and of other lands. Manor allotted to M. from her descent to H. from him to M. Church vacant. Descent to three plaintiffs, coheiresses, *Ra.* 514. *Vet. Int.* 72.

*Husband and wife*, seised of manor to which, &c. in right of the wife, present. Manor descends to three daughters, they make partition of the manor; and advowson remains in common, part of one sister descended to two others, one of whom took husband; one plaintiff who is *tenant by the curtesy*, to whom and the other plaintiff the son of the other sister it belongs to present, *Ra.* 514.

J. seised of advowson. Descent to T. the uncle, from him to A. and E. daughters; part of A. descends to J. and from him to one plaintiff, and part of E. to the other plaintiff, *Ra.* 514.

R. seised of the manor, to which, &c. presented, and afterwards committed a felony and was hung, *per quod* plaintiff's father, of whom the manor was held, entered by *subinfeudation* which descended to plaintiff, *Ra.* 500. *Vet. Int.* 132.

H. seised

# INDEX TO LEADING TITLES OR HEADS

- H. seised of the manor, to which, &c. Descent to son within age. The king presented by wardship. Son when of full age enfeoffed plaintiff of three acres with the advowson, *Ra.* 500.
- R. seised of manor to which, &c. presented and gave the manor to J. and E. who enfeoffed M. Descent to plaintiff, and bishop collated by *lapse*, *Ra.* 501. *Vet. Int.* 129. J. seised, &c. presented. Manor descended to D. who enfeoffed H. who enfeoffed plaintiff, *Ra.* 504.
- W. seised, &c. presented and enfeoffed R. who demised to plaintiff for life, who presented, and church again vacant, *Ra.* 513. *Vet. Int.* 27. H. seised, &c. presented and demised for life, who demised for years determinable on his own life, reserving the next avoidance and rent with clause of re-entry for rent arrear. Plaintiff presented and re-entered for rent unpaid. J. disseised plaintiff and presented, and church again void, *Ra.* 513.
- N. seised of an advowson granted to plaintiff to his own use for life. Remainder to J. in tail, and if N. should die, A. being within age, then plaintiff to stand seised till A. should come of age. N. died, A. within age *Cr. Ent.* 489.
- By two tenants by the curtesy of an advowson in gross they and their wives seised presented, and now it belongs to them to present by death, *Her.* 544. Where wife's father presented, and church void, 557.
- R. P. senior seised in gross presented R. P. junior, who was admitted by *divers persons taking upon themselves the authority*, &c. R. P. senior granted the advowson of the church to R. P. junior, and then recites 12 Charles 2. to continue in possession saving the right of patronage on the next avoidance, &c. R. P. junior bequeathed the advowson to F. his wife for life and died, by whose death the church became and is void, and it belongs to plaintiff, wife of R. P. junior, to present, *Clif.* 604.
- Declaration on the title of the count of Arundel after many descents after *usurpation* under the authority of the pretended parliament before Charles 2. *Ibid.* 619.
- That plaintiff's father being seised presented his clerk, by whose death the church became void and remained so for eight months. A *lapse* to the king who presents. Father dies seised, &c. Advowson descends to plaintiff. Avoidance by the death of the king's incumbent, and it belongs to plaintiff to present, 2. *Mo. Int.* 290.
- Against the bishop, &c. upon the death of incumbent of grantee of next avoidance, &c. First grantee grants over death of patron's incumbent. Grantee presents. Patron dies. Descent to his heirs who alien in fee to plaintiff, 2. *Mo. Int.* 292.
- Plaintiff seised of a *rectory* to which advowson of vicarage belongs, *Co. Ent.* 520.
- Of a manor with advowson *appendant* presented and afterwards enfeoffed plaintiff, *Ra.* 504. *Ve. Int.* 10. Appendant to fourth part of a manor, *Ra.* 504. To moiety of a manor, *Ibid.* *Vet. Int.* 110.
- By abbot, where predecessor seised of advowson *in gross*, presented and afterwards died, and it now belongs to plaintiff his successor to present, *Ra.* 524. *A/b.* 347.
- By prior advowson appendant to an acre of land, *Ra.* 512. *Vet. Int.* 73.
- Plaintiff seised of advowson of two parts of a church, presented, and now it belongs to him to present to the same two parts vacant, *Ra. Ent.* 529.
- Plaintiff's father, seised of a manor with advowson appendant, presented, and manor descended to plaintiff, *Ra.* 496. *Co. Ent.* 418. *Vet. Int.* 27, 71. Of an advowson *in gross*, *Ra.* 504.
- Abbot seised of advowson *in gross* presented, and the right of advowson descended to his father, and from him to plaintiff, 497.
- C. having wardship of the manor *ad quod*, &c. *durante minoritate* of plaintiff's father, presented, and the right of presentation together with the manor descended to plaintiff, *Ra.* 503.
- R. seised of the manor of P. with advowson appendant, presented, and the manor descended to W. and from him to J. within age, and in wardship of the king having the manor of L. of which the manor of P. is held. The king presented. Manor of P. descended to plaintiff, *Ra.* 504.

J. seised of advowson *in gross* that descended to E. who took to husband M. who presented in right of his wife. Descent to D. within age and in wardship of the king. D. died within age, and descent to plaintiff within age, to whom the king granted *livery*, *Ra.* 506.

W. seised of manor to which, &c. levied a fine to uses in tail before the statute, which after the statute remained to B. W. levied a fine to the former plaintiff who died seised thereof, and after inquisition was found in wardship of queen Mary and Elizabeth who presented *per cessionem*, and plaintiff sued out his *livery*, *Co. Ent.* 499.

Abbot seised granted next avoidance and surrendered to Henry 8. from whom it descended to Edward 6. Grant by him to B. by him to C. and descent to plaintiff, *Co. Ent.* 503.

T. seised of the rectory to which the advowson of vicarage belonged presented and levied a fine to J. and D. who granted to plaintiff and one M. who released to plaintiff, the king presented by *lapse*, and now it belongs to plaintiff to present, *Her.* 553

By bishop, where predecessor, seised of advowson collated, and afterwards was translated, and plaintiff consecrated a bishop, *Ra.* 501. *Vet. Int.* 72.

By prior, where predecessor seised of advowson in marthes of Wales presented, *Her.* 545. Prior defendant seised of advowson of vicarage in gross presented and granted next avoidance to plaintiff, *Vet. Int.* 26. Abbot, seised of advowson of vicarage in gross, presented, and defendant, his successor, granted plaintiff nomination to the vicarage on the next avoidance, *Ra.* 520. *Vet. Int.* 130.

Of a church, being a hospital incorporated of a master and convent, and when vacant, the brethren were used to request licence of patron to elect a master, and be presented to the bishop by the patron, and plaintiff's father seised of the advowson presented the last master, and the advowson descended to plaintiff, *Ra.* 506. *Vet. Int.* 209.

Of a chauntry, where plaintiff seised of an advowson, viz. to present six chaplains to prior, and he to institute and induct one of them, *Ra.* 499. *Vet. Int.* 132.

By warden of a hall, where L. seised of an acre of land with advowson that descended to J. who granted to C. with a warranty, and levied a fine thereof. C. by royal licence granted to warden, and warden and scholars, *Ra.* 499.

Bishop, seised of advowson of prebend, collated and granted next avoidance to plaintiff, 522.

Abbot, seised of several portions in church presented, and these were afterwards united. Successor granted next avoidance to plaintiff, 522. Seised of advowson of vicarage in gross presented, and granted next avoidance to plaintiff, *Ibid.* 522. 525. *Vet. Int.* 72.

Archbishop, seised of advowson of a prebend to which the king presented, by reason of the temporalities in his hand, successor granted next avoidance to plaintiffs and others deceased, *Co. Ent.* 507.

Defendant, seised of manor to which, &c. granted next avoidance to plaintiff, *Ra.* 521. J. seised of manor to which, &c. presented and levied a fine *with remainder to himself for life*, and granted next avoidance to plaintiff, *Ibid.* Husband and wife seised &c. presented, wife survived and took another husband, who granted next avoidance, 525. T. seised, &c. presented and enfeoffed J. who gave in tail to C. from whom it descended to S. who granted next avoidance to plaintiff, *Ibid.*

A. seised of a manor that descended to B. who levied a fine to C. who granted next avoidance to plaintiff, *Co. Ent.* 264. J. seised of manor, &c. presented, manor descended to E. Grant of next avoidance to plaintiff, *Kent.* 53. R. and wife seised, &c. presented, had two daughters, wife survived, and by act of parliament daughters and husbands were to enjoy the manors and partitions made and repealed by another act. E. seised granted to the king in tail, who granted next avoidance to plaintiff, *Ibid.* 523.

By husband and wife, executrix of grantee of next avoidance in the term of co-heiress,  
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heirefs, *Co. Ent.* 477. By assignee of next avoidance, *Ibid.* 481. Grantee of next avoidance after partition of advowson in gross, *Ibid.* 490.

J. seised of advowson of moiety of a church, granted next avoidance to S. who assigned to M. Grant by J. of advowson to uses in tail. Grant by issue in tail to uses in tail. Female tenant for life took baron plaintiff, *Co. Ent.* 591.

Plaintiff, seised of a castle to which the advowson of a priory in the marshes of Wales belonged, presented, and now void by resignation, *Her.* 545.

J. seised of an advowson, granted next avoidance to P. who assigned to D. who presented, advowson descended to S. who granted to plaintiff. Plea in bar by patron, that being himself seised, he granted next avoidance to P. who assigned to D. who presented, and traverse that J. granted to P. Plea by clerk similar. Replication to both pleas, *Aff.* 378.

#### PRESENTATION BY TURNS. OR OF PARTS.

By the heir of a coparcener. J. W. prior, seised of advowson in gross, granted to B. C. &c. Henry 8. seised. Descent to queen Mary. Grant by her to lord D. in tail male. R. L. grants to R. and E. 1. Death of R. L. Death of queen. Descent of reversion to queen Elizabeth. E. L. presented one H. S. The queen after death of H. S. presented one White by *lapse*. Lord D. levied a fine, &c. to R. H. to the use of R. H. and his heirs during the life of lord D. Grant by R. H. of his estate to N. P. Death of lord E. D. Descent to E. lord D. his son and heir. Death of the queen. Grant by Jac. of his reversion to sir Charles M. and E. S. in fee, and they grant their reversion to Edward Skynner in fee. Death of E. Lord D. without heir male. Death of Edward Skynner. Descent to R. his son and heir. Death of R. S. Descent to *four daughters coparceners*. Church void. Parceners do not agree to joint presentation, and for that it belonged to E. the eldest. She and her baron suffer a usurpation. Death of incumbent. Mary, second daughter, suffer usurpation. Death of Margaret, third daughter, and her baron. Descent of part of Margaret to J. J. son and heir. Death of J. J. and descent to plaintiff his brother and heir. Death of incumbent, and belongs to plaintiff in *third* turn to present, 2. *Lut.* 1118.

E. seised of advowson in gross, presented and died. Descent to three daughters. Son of eldest daughter first presented, and son of second; and church void. It now belongs to plaintiff to present in his third turn as son of third daughter, 1. *Bro.* 296.

J. seised of *fourth part* of a manor, to which *fourth part* of advowson, viz. to present every fourth turn belonged, presented. N. and wife, seised of another fourth part of the manor, &c. N. became lunatic, and church void by statute of pluralities, queen presented in the term of M. R. and plaintiff, seised of two parts of the manors, &c. to present every other two turns. Church void by resignation, and R. and plaintiff presented in their first turn. R. died, and plaintiff survived, to whom in second turn it belongs to present to vacant church, *Wi. Ent.* 628.

J. seised of manor of D. to which four turns belonged to present, and another turn belonged to manor of W. presented in the first turn. Manor descended to B. who assigned to mother for dower, who presented in *second* turn. She died, and B. presented in third turn. Manor descended to R. he presented in fourth turn. Church void by deprivation. T. seised of manor of W. presented in *fifth* turn. R. again presented in two first turns. Manor descended to A. who by will devised the manor, &c. *Executor durante minoræ ætatis* of heir demised to plaintiff, *Wi. Ent.* 650.

Prior, seised of moiety of advowson of two parts of a church, and J. of the other moiety, namely, each of them to present alternately. Church being full, prior by consent, &c. granted next avoidance to B. Priory dissolved by 27. Henry 8. King, seised of the *moiety*, &c. granted to M. in tail. Descent to T. Church void, and next avoidance granted to B. which come to his *administrator*, who presented.

presented: The moiety of J. came to W. who presented the other moiety to plaintiff, to whom, &c. 715.

Plaintiffs set forth the act of union of churches in London of Saint A. B. and Saint A. W. and that Saint A. W. should be the parish church, and the respective patrons should present by *turns*, the first to be by that which had the largest endowments, and Saint A. W. had the largest. That T. G. at the time of the act was seised in fee of the advowson of Saint A. B. and C. 2. patron of Saint A. W. 17. C. 2. T. G. sold his advowson in fee to several of the inhabitants of Saint A. B. J. C. died, by which Saint A. W. was first vacant after the act, and C. 2. presented T. S. who was inducted. Inhabitants of Saint A. B. are all dead, but the plaintiffs T. S. died. Church void. Plaintiffs have right to present. Demurrer. Judgment for plaintiff, and afterwards reversed in parliament, *Lev. Ent.* 141. *Vide 3. Lev.* 415.

W. R. and E. seised of a manor in common to which, &c. presented. W. granted his *part* to J. and E. demised his part to G. Church void by resignation, and it now belongs to themselves J. R. and G. to present, 1. *Bro.* 297.

C. H. and T. seised of a manor in five parts to be divided, to wit, C. of two, H. of two, and T. of one part, to which, &c. presented. T. sold his house and *part* of advowson to C. who died, and his parts descended to plaintiff, and *parts* of H. to F. in tail, to whom, &c. *Wi. Ent.* 643. *Vide Heb.* 45.

By assignce of grantee of next avoidance, where B. was seised of manor to which, &c. Descent to two daughters. Descent of purparties. Feoffment. Composition by deed to present by turns. Divers presentations in turns, and by the king in right of ward. Two attained of treason of *one* purparty, and grant thereof by the king. Grant of next avoidance for the turn which came to plaintiff by a separate grant, *Wi. Ent.* 754.

T. S. knight, lord M. seised of *one moiety* of church of H. belonging to the manor of B. and T. W. esquire, seised of the other moiety in gross, T. S. in his turn presented G. H. clerk, and died, and his moiety descended to his son and heir, who granted to plaintiff and another the next avoidance in his turn. G. H. died, and T. W. in his turn presented R. W. who died, and it belongs to plaintiff, &c. *Bro. R.* 407.

That T. S. seised of the manor of B. to which advowson of *two parts*, viz. to present two first turns in every third turn, and T. W. and M. his wife were seised of the manor of P. to which the advowson of third part of the church to present every third turn belonged. T. S. presented A. F. and afterwards died, and the manor descended to F. S. knight. W. C. died, and T. W. in right of his wife presented H. P. and church void by deprivation of H. P. and F. S. in his first turn presented R. A. and afterwards F. S. sold the manor of B. to W. L. senior, who demised to W. L. junior for one thousand years. Church void by death of R. A. W. L. junior, in second turn presented N. P. T. W. and wife died, and the manor of P. descended to A. W. the father. Church void by the death of N. P. and it belongs to plaintiff to present in his turn, *Clif.* 602.

J. H. seised of *fourth part* of advowson, presented W. R. R. B. seised of *another fourth part* after death of W. W. presented J. D. R. S. and wife seised of another fourth part after death of J. D. presented J. L. P. V. E. W. and J. E. seised of another fourth after death of J. L. present W. R. Grant by J. H. to T. J. and J. V. R. B. and (J. P. plaintiff) of next presentation. T. J. J. V. and R. B. died, and plaintiff survived. Church void by death of W. R. and it belongs to plaintiff, &c. *Clif.* 606.

J. seised of manor to which, &c. enfeoffed H. who demised to J. for life, with divers remainders in tail. R. seised in tail had *four* daughters, one of which had a son and died, the said manor and three other manors descended to the four parceners, who made *partition* of the manors, except the advowson. The son of the eldest daughter first presented, because they could not agree. Second daughter

- daughter presented in her second turn. W. presented by usurpation the third turn, and it belongs to plaintiff in fourth turn, &c. *Ra. 515. Ver. Int. 181.*
- The manor to which, &c. descended to *two* sisters, who with their husbands agreed to present by turns, and now it belongs to plaintiff, &c. the second turn. Defendant admits the agreement, but says, that the clerk alledged to be presented by defendant after the agreement was presented before by the father, and it belongs to defendant, &c. the first turn which plaintiff does not deny judgment for defendant, 1. *Ra. 515.*
- W. seised of manor of L. to which, &c. which with lands and advowson of church of N. descended to E. and M. daughters, who make *partition* to have several moieties of manor and lands, and present in turns to several churches, and it belongs to M. and her baron to present in second turn, *Ra. 515. Ver. Int. 27.* Of eleven ox-gangs of land to which, &c. descended to N. and from him to four daughters, who make partition that each should have two ox-gangs and thirty acres of land, and present in turn. Several presentations in turns. Grants of next avoidance. Grants of turns of advowson. Feoffments of purparty. Descent and presentation by the king in right of ward, *Ibid. 516. Ver. Int. 111.*
- The king, seised of advowson in gross, and of other advowsons, manors, and lands that descended to M. J. A. and E. daughters. Purparty of J. descended to C. and K. daughters, and several other purparties to daughters, who make partition, *per quam* advowson was allotted to purparty of said M. and J. that M. should present the first turn, and G. and K. the second, and after five turns and several descents it belongs to plaintiff, &c. *Ra. 517.*
- Manor to which, &c. descended to four daughters, one of which granted her purparty to another. Descent to four daughters. The eldest daughter, (without partition or agreement alledged) presented the first turn, and so the others in turns. Divers descents. Grants. Usurpation on turns. Presentations by the king in right of ward, and collations by bishops *in lapsis, Ibid.*
- M. seised of three manors, to *one* of which, &c. Descent to three daughters, who make partition, *per quam* manor to which, &c. and presentation in the first turn were allotted to one, the other manor and presentation in the second turn to another, and another to the third. Manor descended to *two*, and after ten presentations in turns, and divers conveyance and descents, manor and advowson were conveyed to plaintiff by fine, *Co. Ent. 468.*
- By husband and wife executrix of grantee of next avoidance, when B. was seised of the manor to which, &c. that descended to two daughters. Descent of purparty. Feoffment. Agreement by deed to present by turns, and several presentations by turns, *Co. Ent. 477.*
- A. seised of advowson in gross, presented and granted advowson to B. and C. in fee, who agree to present by turns, and afterwards granted their several moieties in tail, and one moiety descended to plaintiff, *Co. Ent. 479.*
- T. seised of the manor of B. to which *two* parts of advowson belonged, presented two first turns. L. and wife seised of manor of P. to which *third* part, &c. presented in third turn. L. presents in fourth turn, and sold the manor to M. who demised to S. who presented fifth turn. Manor of P. descended to plaintiff, who ought to present the sixth turn. Plea in bar, title to present by turns, and traverses that church was void by deprivation. Demurrer, *Co. Ent. 486. 505. Dy. 299.*
- A. and B. seised of advowson *in common*; that A. to present in first turn and B. second, A. granted next avoidance to plaintiff. Plea by patron, that bishop collated *by lapsis* in turn of A. and afterwards A. presented in turn of B. and granted next avoidance to plaintiff, and *traverse* that clerk was presented in turn of A. Demurrer. Plea by clerk, that R. seised of advowson that descended to T. bishop collated *by lapsis*. T. granted the advowson to *uses*, and afterwards granted next avoidance to A. who presented, and afterwards T. granted next avoidance to defendant, and *traverse* that at the time of the presentation of the clerk A. and B. were seised of the advowson, and issue, *Co. Ent. 496.*

- A. seised of the advowson of the fourth part of the church, presented. B. seised of another fourth part, presented. C. seised of moiety of the manor, to which the advowson of the other fourth part belongs presented, and D. seised of the other moiety thereof presented, and A. granted next avoidance to plaintiff, *Dy. 78.* Manor to which, &c. descended to two daughters, who make partition, &c. *T. 5. E. 2. 12. Vet. Int. 72.*
- Advowson descended to A. and B. daughters, who assigned to their mother for dower, who granted next avoidance to C. and D. who presented. A. and B. took husbands, presented, and died. Church void, and because they could not agree to present, it belongs to son and heir of eldest sister, &c. *Her. 546.*
- A. seised of third part of a manor, to which third part of advowson to present every third part belongs. B. seised of other third part of the manor, &c. and C. of another third part whereof, &c. severally presented. A. died; descent to D. and from him to plaintiff, *Ibid. 548.*

PLEAS IN BAR AND IN ABATEMENT. (See ABATEMENT.)

- Plea in bar, that presentation on the first turn belonged to the manor of S. and two next turns to manor of B. and fourth turn to manor of W. Several presentations, and *traverse* that presentation on the two first turns belonged to manor of B. and third to manor of M. *Co. Ent. 506.*
- Plea, by clerk in *abatement*, that patron is not named in the writ on simony alledged, but not allowed, 3. *Lev. 13.* Demurrer by attorney general, *Bro. R. 410. Clif. 627. 2. Lut. 1088.* Special imparlance, *Clif. 614.*
- Plea that he *did not hinder.* Judgment thereon by attorney-general, and writ to the bishop to admit, *Wi. Ent. 709.* And judgment thereon for plaintiff, with *remitter cum nota*, *Ra. 517.* And writ thereon to admit clerk, and *venire facias* to try the issue for damages, *Ibid. 503.* And by one defendant and judgment thereon, but *cesset executio* till plea determined between plaintiff and other defendant, *Ibid. 522.* And judgment and issue for damages, *disfringas* awarded against the other defendant, and judgment for plaintiff on the return, *Ibid.*
- Plea by one defendant, *did not hinder* the other specially, *Ra. Ent. 528. Wi. Ent. 703.* and judgment thereon, but *cesset executio* till plea between plaintiff and the other defendant be determined, and *nihil* as to costs, defendant within age, *2. Bro. 224. Wi. Ent. 710.*
- Plea, patron confesses the action. By clerk, that W. seised of the manor to which, &c. made a *feoffment* to uses for life and in tail, remainder in tail descended to defendant, the patron, who presented him, and had *traverse.* Demurrer special, *Wi. Ent. 664.*
- Clerk confesses declaration to descent of king James, and pleads that James died seised of advowson that descended to Charles, who presented defendant, and *traverse* that king James granted M. &c. and issue, *Ibid. 667.*
- Plea by *patron* and *clerk* jointly, that the abbot seised of the rectory to which the advowson of vicarage belongs, surrendered to H. 8. descent to Elizabeth, on whom plaintiff's grandfather usurped. Grant by Elizabeth of the rectory and advowson to C. who sold to T. who sold to defendant the patron, who presented the other defendant, and *traverse* that advowson of the vicarage belonged to the manor, and issue, *Ibid. 691. Vide Hob. 327.* Special verdict and judgment for plaintiff.
- Plea by defendant, that he *did not hinder*, another pleads that T. was seised of third part of advowson to present every first turn, and plaintiff's father of two parts, who severally presented in their turns. Part of T. by several grants came to defendant, who in his first turn presented, and *traverse* that plaintiff was seised of advowson in gross by itself, *Wi. Ent. 703. Vide Hob. 184.*
- Plea by *patron*, confession of part, and that H. covenanted to stand seised of two fifth part to uses in tail, and had a son, and he and son granted next avoidance to

- plaintiff. By *clerk*, that he is *parson imparsoned* of the presentation of the patron, and pleads similar plea. Demurrer, *Wi. Ent.* 644. *Vide Heb.* 45.
- By *clerk*, that he is vicar *imparsoned* on the presentation of the king, whereof he does not intend that our lord the king will implead him, and that the vicarage was void by the statute of pluralities, and by *lapse* devolved to him to present, and he presented defendant. Demurrer, *Wi. Ent.* 710.
- The *bishop* claims nothing, &c. the other defendant pleads that the plaintiff had not a grant of the new avoidance, *modo et forma*, and issue, 2. *Mo. Int.* 292.
- Confession of action by *patron*. Plea by *clerk*, that patron's father died seised of the advowson, which descended to patron, who presented defendant, and *traverse* that the father granted the next advowson to plaintiff, and issue, 1. *Bro.* 300.
- Defendant confesses declaration, and further pleads that R. the issue in tail, suffered a common recovery of the advowson to defendant's use for twenty-one years, who was possessed of the same as in gross, and church being void, it belongs, &c. Replication, that the recovery was had to the same uses as the fine, and *traverses* that it was had to defendant's use. Demurrer, 2. *Bro.* 206.
- Confession of part of the declaration to the grant of next avoidance of W. and then pleads that W. died intestate, and administration was committed to R. who presented, and is *parson imparsoned*, and *traverse* that W. granted next avoidance of E. and issue, 2. *Bro.* 224.
- That H. 8. seised of advowson in *gross* presented. Descent to Ed. 6. who presented, from him to Eliz. who presented, from her to James, on whom plaintiff usurped, and the king now presented defendant, who is *parson imparsoned*. Replication, confession of part of plea, but says, that Eliz. seised granted advowson in fee to A. and plaintiff, and A. by deed released to plaintiff, who is sole seised. Rejoinder, defendant prays *oyer* of letters-patent, says that Eliz. did not grant, 2. *Bro.* 266.
- T. and J. seised of moiety of a manor to which, &c. presented and made a gift in tail to J. and his wife, descent thereof to O. the issue in tail, upon whom church being vacant, the late bishop usurped, and by the king's licence was appropriated to the bishop, who made a vicarage thereof, to which plaintiff by usurpation presented. Moiety descended to defendant, who presented the other defendant to the church vacant by resignation. Replication, protesting he does not confess the gift, for plea that O. was seised of a moiety, &c. in fee, and enfeoffed the late bishop of one acre thereof, with the advowson in fee *cum conventu* by licence, &c. appropriated the church to their own proper use, and made the vicarage to which the late bishop and the now plaintiff severally presented, and *traverse* that the advowson belongs to the moiety of the manor, and issue, *Pl. Gen.* 475.
- Plea by *incumbent* T. S. that he is *parson imparsoned* of the presentation of one J. S. gentleman, his patron, who is yet living, and descent to H. 8. and from him to Ed. 6. from him to queen Mary, from her to Elizabeth, and that church void by death of D. H. incumbent. Queen Elizabeth presented B. N. who resigned, and she presented K. R. He died, and plaintiff usurping on the queen's right, presented said R. T. Queen Elizabeth dies, and advowson descends to James; he grants next avoidance to J. S. R. T. the incumbent dies, and J. S. presents the said T. S. Replication, judgment against the bishop, and writ awarded; plaintiff protesting that queen Mary and Elizabeth and king James were not seised or died seised; for *plea*, confesses seisin of H. 8. and his dying seised, and that advowson descended to E. 6. who granted to T. Y. gentleman, who granted to T. C. gentleman and Jane his wife. She dies, and S. was sole seised and died. Death of D. H. incumbent, and church continued void for eighteen months and upwards, and presentation came to queen Elizabeth, who presented said B. N. who resigned, and plaintiff had notice of it the sixth of November, 18th Elizabeth, and church continued void for eighteen months, by which presentation W. came to the queen, who thereupon presented

sented the said K. R. who died, and it belongs to the plaintiff to present as the true patron, whereupon he presented R. T. who died, and thereupon it belongs to plaintiff to present, and *traverse* that king Edward the Sixth died seised *prout*, &c. Demurrer and joinder, *Bro. Vad.* 377.

Plea by defendants *bishop* and *clerk* in abatement at the suit of the king for *variance* between the writ and count. Demurrer by attorney-general. Joinder. Respondens ouster, *Lev. Ent.* 145. Demurrer by bishop to the count, and incumbent confessing seisin and collation of L. and all the presentation by the king, pleads 25. H. 8. of dispensations, and that archbishop granted to Dr. T. a dispensation to hold in *commendam*, with confirmation of letters of dispensation by the king, that T. was created bishop of Lincoln, and then bishop of London collated incumbent. Joinder by attorney-general, and demurs to incumbent's plea, who joins in demurrer, *Ibid.* 146, &c.

Plea to the count by the king on statute 21. Eliz. of *simony* against incumbent only in abatement of the writ, for that *patron* is not named in the writ with defendant. Demurrer by attorney-general to plea, and joinder *cur. adv. vult.* *Nolle pros.* by attorney-general, *Ibid.* 410, &c.

Plea in bar to count by surviving assignee on grant of next presentation, &c. that long before R. A. had any thing A. H. was seised and presented C. G. A. had issue four daughters, Ann, Mary, Elizabeth, and Dorotay, to whom advowson descended. Mary and Dorothy grant their two parts to Elizabeth, and Ann died, and her purparty descended to J. B. Elizabeth died, and her purparty descended to R. C. Church void by death of C. G. J. B. in his turn presented T. F. J. B. died, his part descended to T. B. who died, and descent to W. B. and then R. C. granted his three parts to T. A. Church void. T. A. presented J. C. W. B. died, descent to J. B. T. A. died, descent to J. A. who in *second* turn presented J. H. J. A. died, descent to R. A. in the count, who in this turn presented S. H. J. B. died, descent of *fourth* part to W. B. who granted to defendant, the parson, the next avoidance, who in turn presented O. J. his clerk, *Chif.* 615. &c. traversing that R. A. was seised *modo et forma*, &c. *Ibid.* 627. O. J. incumbent, pleads as before, and issue on the several traverses, *Ibid.* 617, &c.

Plea by *patron*, that P. earl A. was seised in gross, and presented R. S. and afterwards granted to T. T. Descent to H. T. and fine levied to use of M. B. and the heir, who presented (after the death of R. S.) H. T. M. deviled to his wife for sixteen years, and the reversion descended to B. Church void. T. earl A. usurped on the wife, and presented R. W. A. B. died seised, and descent to defendant. Church void, and E. A. on his nomination, was collated, &c. Church void, and defendant presented the present incumbent, and traverses that earl A. at the time when, &c. presented, was seised, &c. Clerk shews title to Thomas, earl A. by act of parliament, and his heirs male, and fine levied to the use of A. B. the father of said W. B. and descent to W. B. on whose nomination the said E. A. was collated, after his death W. B. presented defendant, the now incumbent, and traverse as before, *Ibid.* 623. Issues on the several traverses, *Ibid.* 625.

Plea by defendant of statute Hen. 8. against taking two benefices, and entitles by lapse to the king, *Bro. Mit.* 339.

Plea, and the queen entitles herself to the presentation of the church of C. by *statute of pluralities* upon the acceptance of Bolt, clerk of the benefice of R. Plea by defendant C. did not disturb, and issue. Plea by L. defendant and J. Bio of the provisos in the act of dispensations, and that before Bolt accepted he was chaplain to queen Mary, and that the queen was seised of the manor of R. to which, &c. in right of the duchy of L. and the church being void by the death of one M. the queen presented Bolt, and that lord D. granted the advowson of C. to T. U. in fee. T. U. granted to S. grant by S. to H. lord Stafford, descent to his son H. lord S. Grant by him to R. Bio, grant by him to defendant Bio, and church of C. void by death of Bolt, whereby defendant J. Bio presented defendant A. and plea by A. in effect as above, 2. *Lut.* 1078.

Plea by lapse *sur mesne* statute or pluralities, and confess that M. bishop of L. was seised of C. and collated G. G.; that G. was qualified and accepted H. but after and before G. was inducted bishop was translated to W. and T. succeeded him; that G. afterwards accepted W. and T. bishop collated June, and T. bishop, was translated to W. that the bishop, one of defendants, succeeded him. Church void by death or J. Bishop collated defendant L. who had been parson, &c. for six months and more, *Ibid.* 1084.

Plea after divers protestations, confessing part of the count; that prior granted to W. for ninety-nine years, on whom C. and D. usurped, and confess the residue of the count to presentation of the last incumbent, who was *deprived* for non payment of tithes. Church void, and for eighteen months the king presented defendant, and traverses church void by the death of last incumbent, 2. *Bro.* 236.

Plea to count by the king on title for simony. By bishop as usual. By patron, demurrer. By incumbent N. H. that he is parson imparsonce on the presentation of defendant. T. B. and C. B. esquires, were seised in fee of the manor of W. S. to which the *third* part of advowson belonged; that C. B. was seised of the manor of W. T. otherwise W. T. A. to which the remaining third belonged. That H. B. in his first turn presented G. and that C. B. in his second turn presented W. R. and defendant T. B. in his turn presented the defendant N. H. and traverses the simony. Replication and judgment against the bishop, and issue joined on the incumbent's traverse, and attorney general joins in demurrer with T. B. *Ibid.* 1091, &c.

That the last incumbent of a rectory took *another* benefice with cure of souls, *per quod* the first church void, and by lapse came to the queen, who presented defendant, *Pl. Gen.* 485. with traverse that church was void by death of the last incumbent, and issue, *Wi. Ent.* 779.

Plea, protesting, &c. by *patron*, that A. seised of the manor to which, &c. granted next avoidance to R. who presented, and afterwards A. demised the manor to defendant, who presented *another*. Defendant confesses plaintiff's title, and *traverses* that plaintiff presented another clerk. Confession by clerk of plaintiff's title, and further pleads that plaintiff granted next avoidance to T. who assigned to the patron and to the plea of clerk maintaining his count, and *traverses* grant to T. issue. Judgment for defendant on demurrer, *Ibid.* 623.

Plea by *patron*, confession to part of count, to church vacant by statute of pluralities, and pleads that the church continued void for the space of two years, and queen presented by lapse in the first turn of R. and plaintiff and church void by resignation to which R. and plaintiff presented in second turn. The wife of N. survived him, and enfeoffed W. who granted next avoidance to defendant; traverse that the queen presented in turn N. Confession by *clerk* of count to the death of R. whom plaintiff survived and enfeoffed G. who enfeoffed W. who granted next avoidance to *patron*, who presented defendant, and traverses that plaintiff was seised at the time of the death of the last incumbent, *Ibid.* 630. Demurrer to *patron's* plea, *Ibid.* 632.

That E. seised of a manor to which, &c. presented and sold the manor of M. and enfeoffed O. who enfeoffed G. who granted next avoidance to H. who assigned to B. Church void by resignation. R. usurped on B. and presented descent of manor to defendant, who presented clerk to the vacancy, and *traverses* that E. granted the next avoidance to R. Special demurrer, *Ibid.* 648.

Plea in bar, statute of simony, church void; traverses avoidance by free resignation of last incumbent, and issue, 1. *Bro.* 298. By *clerk*, who is parson imparsonce on the king's presentation. Replication, that W. *bona fide* granted the next avoidance, and traverses simony. Issue. Judgment for defendant at the assizes on verdict, *Wi. Ent.* 775. *Vide Hob.* 165. By *patron*, that he purely and voluntarily &c. presented clerk, traverses simony. Like plea by *clerk*, and issue on both, 2. *Bro.* 219. Like plea, and traverse by *clerk*, *Ibid.* 222.

Plea by *patron* and *clerk* jointly, that R. purely, &c. presented clerk, and that *patron* being possessed of advowson by virtue of writs of extent and *liberate* presented to the

the vacancy, and church now vacant by statute of pluralities; patron presented; the other defendant traverses simony between R. and his clerk, and issue, *Wi. Ent. 713. Vide Hob. 167.* Pardon of simony pleaded after the last continuance, and demurrer, *Wi. Ent. 714.*

Plea in bar to *quare impedit* by university of Oxford on the statute 5. Jac. by *patron*, that R. enfeoffed defendant of the manor to which, &c. and church void presented the other defendant; traverses that R. died seised of the manor, &c. Confession by *clerk* of the count, and plea that W. (church being full) demised the advowson to the patron for twenty-one years, who (church being vacant) presented defendant. Replication to plea of patron, maintains his count, and traverses seoffment to patron, and demurrer to plea of parson, and demurrer by patron to replication, *Ibid. 627. 773.* Judgment for defendant, *Vide Hob. 126. Wi. Rep. 11.*

Plea by *clerk*, that he is parson imparsonce on the king's presentation, and that the last incumbent, after the publication of an act for the restoration of the ministry, did not make any election, which benefice he would retain within a convenient time, to wit, &c.; *per quod* the king before grant made by him to lord B. presented defendant. Demurrer, *Wi. Ent. 726.*

By *parson*, confession of part of the count, pleads that J. enfeoffed W. who after the death of the wife entered into the manor and enfeoffed defendant's father, who demised the manor to B. for sixty years, who presented third and fourth turn, who in their fifth turn presented, the interest in the term came to R. who presented in two first turns, reversion of the manor descended to defendant, and term of years expired, defendant entered and presented; traverse that J. died seised of the manor, &c.; by *clerk*, confession of part of count, plea that patron in the third turn usurped on B.; *per quod* he was seised of four parts of the advowson as in one gross, and demised to R. who presented in fourth turn, and to residue, as before; traverse that J. was in the church on the presentation of B. Plea by *clerk*, that Hen. 8. seised of the manor of B. C. to which the advowson of D. belonged granted to R. in tail, and after divers descents and presentations the manor descended to A. within age the king seised of the ward of his body and manors presented; defendant traverses that four parts of the advowson belong to the manor of D. and fifth part to the manor of W. and issue and demurrer to plea by patron. Special demurrer to plea of the first clerk, *Ibid. 652.*

Plea by patron, protesting, &c. that prior was seised of one moiety and P. of another, that prior granted the next avoidance to B. *Plenarty* of clerk of P. who died, and F. *usurping* presented in turn of grantee of prior, and had the other moiety as heir of P. Church void, and *administrator* of B. by *usurpation* presented, moiety of F. came to W. who presented to the vacancy, and granted next avoidance to defendant, who presented another defendant, and traverse that the vacancy first named in the count was the first after the grant of the prior. Demurrer by *clerk*, protesting, &c.; for plea, that Hen. 8. did not grant to M. as in the count, issue, *Ibid. 718.* Special verdict and judgment for plaintiff, *Vide Hob. 237.*

## PLEAS IN BAR.

Plea, *did not hinder.* judgment for plaintiff with *remittitur damna*, *Ra. 517.* and *writ* thereon to the bishop to *admit* clerk, and *venire facias* to try the issue for damages, *Ibid. 503.* By one defendant, judgment thereon, with *cesset executio* till the plea between plaintiff and another defendant be determined, *Ibid. 522.* Judgment thereon, and issue for damages. *Disstringas* awarded against the other defendant, and judgment for plaintiff on the return thereof, *Ibid. 522.* Issue between plaintiff and bishop of a *special hindering*, the other defendant pleads *that he did not hinder*, and issue to enquire of damages, *Ibid. 513. Ver. Int. 73.*

Plea by *clerk*, that he claims nothing in advowson unless as parson instituted on the presentation

presentation of E. Replication, that he disturbs, *Ibid.* 513. By one defendant, *did not binder the other specially, Ibid.* 528.

**Plea by clerk**, he claims nothing unless on the presentation of G. not named in the writ, 2. *Lev.* 58. Unless as parson imparsonnee, and judgment. **Plea by other defendant**, takes issue, *Ra.* 529.

#### PLENARTY FLEADED.

**Plea of plenarty** of defendant on his own presentation for six months before the original purchased, *Vet. Int.* 70. **Plenarty** of clerk of one defendant on the presentation of the other for six months before, &c. *Writ* to the bishop, and after his death of archbishop, *Ra.* 498. *Co. Ent.* 498. **Plenarty** of defendant, traverses resignation, *Co. Ent.* 265.

**Plea by prior**, **plenarty** of J. the other defendant on the presentation of the prior for six months before, &c. and by J. that he is parson imparsonnee on the presentation of the prior for six months before, &c. Replication, church vacant till original. &c. and that J. was *inducted* on the presentation of the prior. Demurrer and judgment for defendant, *Ra.* 499. *Vet. Int.* 132.

#### PLEAS, THE ABATEMENT AND BAR CONTINUED.

**Plea by clerk**, that he is parson imparsonnee on the presentation of J. one defendant and E. his wife tenant in tail, in *abatement* of the writ, for that he is not named in the writ. Demurrer by patron in bar, title by his wife's estate tail, and *usurpation* by another tenant in tail; traverse that P. was admitted on the presentation of M. and issue; and *writ* to the bishop to certify, *Ra.* 533.

That he was not admitted on the presentation of R. and issue, *Ra.* 530. *Vet. Int.* 73. Prior defendant's predecessor presented clerk, who was admitted on his own presentation, and not on the presentation of E. and issue, *Ibid.* 503. Replication, that the father, at the time of the presentation, was within age, and his guardian presented clerk, who by collusion between the prior and him resigned, and was admitted again on the presentation of the prior. Rejoinder, that the guardian did not present clerk, nor was the clerk admitted on his presentation, and issue, *Ra.* 503.

**Plea by clerk**, that he is parson imparsonnee on the presentation of plaintiff's grandfather, and traverse the avoidance. Replication, that defendant was a bastard, and incapable, which the bishop knew. Rejoinder, protesting no avoidance, for plea that bishop did not know, and to resigne, demurrer, *Iler.* 549.

That the last parson presented was *mere laicus*, and that the church remained void by law, and archbishop collated by lapse, *Co. Ent.* 507. That church was not void *modo et formâ*. Replication, void by *deprivation* in the count stated, *Ra.* 500. *Vet. Int.* 111.

That plaintiff, after the grant of the next advowson, and before avoidance made to one defendant, a general release, and *non est factum* thereto, *Ra.* 523. *Vet. Int.* 26.

That defendant had provision of a prebend from the Pope, and accepted that avoidance, and the king after *confirmed* to him the prebend. Judgment for defendant at the king's suit, *Ra.* 531.

By clerk, that he was restored to the church after *deprivation* for cause of matrimony, and traverse the avoidance by death. Demurrer, *Co. Ent.* 487.

By abbot, that T. seised of advowson in grois levied a fine to W. who by pardon and licence to alienate levied to the abbot in *puram elemosinam* and *appropriation* thereof to the abbey, and the abbot held it for their own use, *Ra.* 497.

That H. 8. presented M. advowson descended to E. 6. who granted it to dean and chapter in fee, and *united* and appropriated it to them. Church void. Defendant was parson. E. 6. afterwards presented, but void because church was full. Demurrer. *Ra.* 497. *Pla.* 494.

er died seised of advowson and of lands held in *capite*, the king seised the

the heir within age, and presented in right of ward. Replication, that the presentation was revoked by decree in chancery, and for that defendant does not make title, and the father granted lands with warranty. Judgment for plaintiff, *Ra.* 499.

Plea by one defendant, that the advowson was allotted by plaintiff to the widow for dower; she presented, and the bishop afterwards collated by lapse; the widow died, and it now belongs to defendant, &c.; traverse that B. was parson. Like plea by the other defendant, traversing, &c. Several issues, *Ra.* 519.

Confession of part of the count, and plea that H. 8. *usurped* in the turn of one co-heiress; *per quod* the king was seised of a moiety of the advowson, and afterwards E. 6. presented in another turn, usurpation on the king, and traverse that W. granted the next avoidance to H. 8. *Co. Ent.* 475.

Plea by J. that W. seised of a manor to which, &c. presented G.; manor descended to M. and from him to R. who enfeoffed F. who gave to B. and P. his wife in tail. B. presented, manor descended to defendant, who demised to E. and others for years; within which term plaintiff, by usurpation, presented the last clerk.

Plea by clerk. Plea in bar by B. that W. seised of the manor to which the advowson of the moiety of the church belonged, and of the other moiety in gross, presented to the church *entire* manor, and advowson descended to K. who enfeoffed F. who gave in tail, &c. as before, and J. demised to B. for years *in futuro*. Replication to the pleas of J. and Clerk that S. was seised of advowson in gross, descent to plaintiff; traverses that advowson belonged to the manor, and issue. Replication to plea of B. that advowson descended to him; traverses that advowson of moiety of church belonged to the manor, and issue and judgment for plaintiff against B. as to moiety of church, to which he did not answer, *Ra.* 509.

Plea by *patron*, that J. was seised of the manor to which, &c. descent to W. who enfeoffed G. who demised to defendant for life; traverses that W. died seised. Like plea by clerk, issue on the traverse, *Ra.* 513. *Vet. Int.* 131.

That J. seised of the manor to which, &c. gave it to G. in fee, descent to R. who married defendant, to whom the king, after his death, assigned third part of the manor held in *copie* for dower; traverse, advowson in gross *per se*, *Ra.* 514.

That the church, on a certain day, was void by death, and title to present by lapse came to the king, upon whom the last patron usurped, and it now belongs to the king, &c. who presented defendant; traverse that the last patron presented the last clerk in the time of Edw. 6. Demurrer, *Co. Ent.* 489.

Plea to count on grant of next avoidance on the 16th of May, that grant was made to defendant on the same day, and that the grant made to plaintiff was first delivered the 18th of May, and issue, *Keil.* 54.

Plea by warden and vicar of a college, that W. seised of advowson in gross, granted to defendant, and afterwards J. and his wife, to whose wife plaintiff is heir, levied a fine with warranty that descended upon plaintiff. Church *appropriated*, and vicarage *endowed* and now void. Demurrer, *Ra.* 533.

Plea to count by the king on a title by attainder, that the advowson was entailed by statute, and traverses seisin in fee at the time of the attainder. Replication, that the statute was repealed by a later. Rejoinder, that there was a *saving* in the act of the lands to be assigned to the heir, and that lands were assigned. Surrejoinder, maintaining replication, traverses the assignment, *Co. Ent.* 483.

Plea by clerk at the suit of the king, that abbot seised of a rectory to which, &c. surrendered to H. 8. who granted to archbishop, whose successor granted next avoidance to patron; traverses that F. was seised in fee of the advowson in gross. Replication, protesting, &c. for plea archbishop did not grant, &c. Demurrer, *Co. Ent.* 495.

That A. seised, covenanted to levy a fine and suffer recovery to uses, and that court-fee should grant next avoidance to A.; fine and recovery were had, but next avoidance was not granted. Demurrer, *Ibid.* 504.

- confession to part of count, and plea that A. seised, devised advowson to R. who granted to king in fee, descent to the now king, who presented; traverses descent to plaintiff. Demurrer, *Ibid.* 504.
- That the king seised the manor to which, &c. by reason of the minority of the heir, and granted to the widow a third part as and for dower, and king afterward presented, and now it belongs to the widow, defendant, &c. Replication, that J. alleged to have been presented by the king, never was parson impaneled. Rejoinder by estoppel, for that defendant, before seoffment made to plaintiff by H. brought a writ of *quare impedit* against said H. and in the count alleged the king to have twice presented. Surrejoinder, that H. enfeoffed plaintiff before the judgment, *Ra.* 500.
- That prior, seised of the avoidance by licence of the king, gave it to the bishop in fee, who presented J.; traverses that J. was admitted on plaintiff's presentation, and issue. Certiorari awarded to archbishop; continuance, and return, *Ra.* 501.
- Vet. Int.* 130.
- Plea by patron, that defendant's father seised, presented the last clerk, and descent to defendant, and traverse that A. presented the last clerk. Demurrer, plea by clerk, that he is parson impaneled on the presentation of the patron, to whom presentation belonged, for cause alleged, and traverse as before. Demurrer, *Co. Ent.* 480.
- That abbot seised, granted next avoidance to defendant. Replication, did not grant, *Ra.* 524.
- That king seised of manor to which, &c. in right of dutchy of Lancaster, granted next avoidance to W. who presented to defendant, who is parson impaneled, *Ibid.*
- Vet. Int.* 71.
- By patron, that prior granted next avoidance to E. who assigns to C. who made defendant his executor. Like plea by clerk. Replication by 31. H. 8. Possessions of the abbey were given to the king, and grant made after the beginning of parliament. Rejoinder, *a saving* in the act. Demurrer, *Ra.* 526.
- That H. seised, granted next avoidance to defendant, and traverse that he gave in tail, *Her.* 58.

## PLEA IN BAR BY BISHOPS AND CLERKS.

- Plea, bishop claims as ordinary to the church, and judgment, *Wi. Ent.* 627. 644. 648. 652. 741. *Bio. Vat.* 359. 362. 371. *Clif.* 607. 615. 2. *Mo. Int.* 292. *Ra.* 497. 523. 526. *Co. Ent.* 512. 515. *Vet. Int.* 26. By archbishop, *Wi. Ent.* 710. 725. 3. *Lev.* 15. To two parts of the church, *Wi. Ent.* 718. *Ra.* 520. To vicarage, *Ibid.* 524. *Co. Ent.* 510. 1. *Bro.* 300. 2. *Bro.* 227. *Wi. Ent.* 624. To church, at the suit of the king, *Wi. Ent.* 750. 2. *Bro.* 220. 222. *Ra.* 528. *Co. Ent.* 516. *Vet. Int.* 20. *Wi. Ent.* 710. To vicarage, *Co. Ent.* 510. Archbishop claims as ordinary in vacancy of episcopal seat, *Wi. Ent.* 761. *Co. Ent.* 586. Guardians of the spiritualities of archbishoprick of York claim as ordinary during vacancy of archbishop, 1. *Bro.* 298. Judgment thereon, *Ibid.* 299. Archbishop claims as ordinary, by reason of suspension of bishop, *Wi. Ent.* 667. 730. Vicar-general of the archbishop of York claims as ordinary, archbishop being in foreign parts, *Ra.* 513. *Vet. Int.* 132.
- Archbishop claims as ordinary. Replication, church void by death of O. and plaintiff, within six months, presented clerk, and defendant presented another; per quod church became litigious. Archbishop awarded inquisition *de jure patronatus*, and verdict for plaintiff, and notice thereof to archbishop, who afterwards refused to admit plaintiff, and *so hindered*. Rejoinder, protesting, &c.; for plea, that plaintiff was seised of two parts, and defendant of third part of advowson; that plaintiff presented J. in the first turn, and after the death of O. the last incumbent in the second turn, and now it belonged to defendant to present, and before plaintiff's request, having first notice of defendant's title, instituted his clerk. Demurrer, *Wi. Ent.* 703.

**Plea**, bishop protesting that vicarage of O. was not of the yearly value of eight pounds; for plea, that after W. had accepted vicarage of L. and before the purchase of plaintiff's writ, plaintiff presented one A. J. to defendant, who was admitted and instituted, and is now parson. Replication, protesting defendant's plea is insufficient, &c.; for plea, saith that he being seised in fee, vicarage of O. became void by acceptance of vicarage of L. by the said W. and that within six months after the vacation, he presented said J. to the defendant, being ordinary, who refused to admit him unless it might be as well on the collation of defendant as on the presentation of plaintiff, which plaintiff denied, and brought original against defendant; pending which defendant admitted and instituted said J. as well on his own collation as on presentation of plaintiff without his knowledge, which admission, &c. is the same mentioned in defendant's plea. Rejoinder, defendant protesting that he did not refuse to admit said J. on presentation of plaintiff; for plea, confesses vicarage of O. void by W.'s acceptance of vicarage of L. and that plaintiff, within six months after the said vacation, presented said J. to him defendant (then and yet ordinary) to be admitted; but further says, that by the ecclesiastical laws every ordinary ought to have twenty-eight days probation of every clerk that is presented before he is admitted and instituted; and because defendant knew not (when said J. was presented) whether he was capable of being admitted, he made enquiry of his abilities, and having within twenty-eight days satisfied himself thereof on the presentation of plaintiff he did admit him to the vicarage of O. and caused him to be instituted and inducted therein, not having any notice of plaintiff's writ. Plaintiff demurs specially, for that rejoinder is a departure from plea in bar and joinder, *Bro. Vad.* 347, &c.

**Plea**, bishop disclaims all title but as ordinary, and chapter claims title in the right of his college, and seised of advowson in gross presents, and after makes a grant of first avoidance, grantee grants over, grantee presents avoidance by death of grantee's incumbent; chapter presents, and traverses grant to M. N. *modo et forma*, *Mo. Intr.* 292. &c. Clerk says he is parson imparsoned, and pleads title in the chapter, &c. as above, and traverses as before. Judgment against the bishop, and *cessat executio*, &c. *Ibid.* 295. Replication, protesting, and issues on the traverses. Bishop claims nothing but as ordinary, and says that the church is a benefice with cure of souls, and that plaintiff, since death of O. presented to him Hodder, who was a person insufficient in literature, &c. for which he refuses to admit, and after he gives notice to plaintiff, &c. and he had not presented any other person to him for which he collated defendant, and defendant, *incumbent*, pleads like plea. Replication to bishop's plea, says, that Hodder, at the time of presentation, &c. was and is vicar of U. and after was examined to obtain episcopal ordination, &c. and like to incumbent's plea. Rejoinder, bishop maintains plea. Like by incumbent. Surrejoinder, maintains replication, and takes issue separately. Demurrer by bishop and incumbent, and joinder by plaintiff, 2. *Lut.* 1094. *Vide* 3. *Lev.* 313.

**Plea** by bishop, that the guardians of the spiritualities granted to him letters-patent of dispensation to hold two benefices in *commendam*, and church void by statute of pluralities came to the kind by lapse, who presented, and traverses avoidance in the count. Plaintiff prays over of letters of dispensation, of confirmation, and presentation. Demurrer, *Wi. Ent.* 635. *Vide* *Hob.* 140.

**Plea** by defendant, confesses seisin of T. S. and presentation of B. but that T. S. seised by will devised advowson to defendant T. earl of A. in fee, and died; church void by death of D. six months; L. the then ordinary collated by lapse; R. S. died, and the earl presented defendant H. and traverses devise to plaintiff C. Judgment against the bishop, and issue on the traverse, *Bro. Vad.* 362.

**By** bishop, claims as ordinary R. H. infant, by guardian, confesses that E. H. was seised *prout.* &c. and being seised mortgaged the advowson to T. M. for payment of one hundred and three pounds, and not paid; estate became absolute, and only redeemable by paying principal and interest; that E. H. afterwards made

his will, and gave the advowson, &c. to Elizabeth his wife, and her sons, by the said Edward; that afterwards T. M. on payment of the money by E. H. granted to E. H. and his heirs, the said advowson; E. H. again was seised, and had issue by Elizabeth the said R. H. and afterwards he and his wife died, and R. H. became seised in tail by virtue of the aforesaid devise, and it belongs, &c.; M. H. the other infant, by guardian, confesses as above, and that E. H. being seised, a fine was levied between J. M. and E. H. of the said advowson to the use of the said T. M. and his heirs; that T. M. died so seised, and advowson descended to M. H. as his cousin and heir, and traverses that E. H. died seised. Demurrer by R. H. the incumbent. Judgment against the ordinary. Replication to plea of R. H. that E. H. did not devise advowson, *prout*, and issue; also issue on traverse of M. H. and joinder in demurrer, with incumbent, 3. *Lev.* 138, &c.

Plea by archbishop, that he at the time of the avoidance of the church was bishop of London and ordinary, and claims nothing as ordinary, *Keil.* 54.

Bishop claims as ordinary. Replication, that church was void by death of T. and within six months, to wit, &c.; plaintiff presented J. whom the bishop refused to admit. Rejoinder, that another defendant before presented another clerk, whereon the bishop refused plaintiff's clerk, and award of *jure patronatus*, by which church became litigious, 33. H. 6. 13. Like pleas and replications. Rejoinder, that another defendant presented another clerk, whereon the bishop awarded a *jure patronatus*, and before executing thereof plaintiff procured an inhibition to him by the archbishop; traversing that he refused to admit plaintiff's clerk after a certain day. Surrejoinder, that he refused after the day. Repleader thereon awarded, and judgment for the bishop on his plea to the writ; and because the bishop collated to the church by lapse. Judgment for plaintiff for two years value, *Ra.* 509.

Plea by the bishop, that church is within his diocese, and void on a certain day, and the other defendant presented to him his clerk, and plaintiff presented another, and church being litigious, bishop awarded a *jure patronatus*, and jury thereon prayed a day to give their verdict, before which plaintiff's clerk obtained an inhibition from archbishop and bishop, afterwards collated by *lapse*. Replication, that verdict was for plaintiff, and bishop afterwards refused to admit, and *so hindered*. Rejoinder, that jury did not agree, but prayed a further day, and traverse verdict for plaintiff. Issue thereon. Plea by N. that he did not hinder, *Ra.* 512. *Vet. Int.* 73.

That church being void, plaintiff within six months presented; bishop on examination found clerk to be an obstinate schismatic, and so refused him whereon he gave notice to plaintiff, and presented by *lapse*, 5. *Co.* 57. *Her.* 547.

That he collated by *lapse*. Replication, that on such a day he presented and bishop refused. Rejoinder, on examination he found him heterodox. Notice to plaintiff. Surrejoinder on the notice, *Co. Ent.* 520. By archbishop, ordinary, that he collated by *lapse*. Replication, that plaintiff on such day presented, and defendant refused, &c. Demurrer, *Hob.* 197.

By bishop, that archbishop granted licence to hold in *commendam*; traverses avoidance in the count. Demurrer, *Co. Ent.* 521. *Hob.* 141.

That an abbey, that on avoidance prior and convent were used to elect an abbot, and certify to the bishop, who examined into the election, and admits the abbot elect, *Ra.* 496. *Vet. Int.* 71.

That by one defendant at the suit of the king, that he did not hinder. By bishop, that he, seised of advowson in gross in right of his bishopric, collated J. and afterwards collated another. Defendant traverses that S. was admitted on the presentation of R. 2. and that E. was admitted on the presentation of H. 5. Like plea by clerk. Replication, protesting that E. was not admitted on the presentation of H. 5.; for plea, that S. was admitted on the presentation of R. 2. *Ra.* 528.

That

That archbishop, seised of rectory, to which advowson of vicarage is appendant, and that M. presented by usurpation, and it now belongs to archbishop to present. Traverse of seisin of advowson in gross. Demurrer, *Co. Ent.* 495.

PATRONS AND CLERKS.

Plea in bar by University of Cambridge, confesses seisin of W. lord Petre, and all seisins and descents in count pleads 23. *Eliz. c. 1.* of recusancy and 29. *Eliz. c. 6.* conviction by proclamation, &c. and *Jac. 1. c. 5*; presentation is given to the university, &c.; that plaintiff being popish recusant, convict, and church void by death of Barnes, whereby chancellor, &c. presented W. W. clerk. Averment, that conviction is in force not reversed. Plea in abatement by defendant W. incumbent recites the acts, and that plaintiff after original, and before that day, &c. to which defendant had special imparlance, was convict of popish recusancy at the general quarter sessions, &c. Replication to plea of university, general pardon by *Jac. 2.* by letters patent, with averment that he is not excepted, &c. and to plea of incumbent plaintiff demurs, and for causes; first, defendant makes no defence; second, does not produce the record of conviction, or any tenor thereof. Demurrer to replication by university, and incumbent joins in demurrer with the other plaintiff; also the plaintiff joins in demurrer with the university. Judgment for the plaintiff, that the plea of incumbent is bad, and *respondeas ouster* awarded, 2. *Lut. Ent.* 1100. 1112, &c.

Plea in chief of defendant W. confesses part of the Count, and pleads 3. *Jac. 1.* giving authority to justices of assizes, and of oyer, &c. to determine offences, &c. and 3. *Jac. 1. c. 5.* by which presentation is given to university. Conviction of plaintiff at general gaol delivery, proclamation, and that plaintiff did not render himself to the sheriff before next assizes. Record of default and church void during the conviction, *per quod*, &c. Replication same in effect with replication to plea of university, that pardon aforesaid, and letters patent enrolled in chancery, and exemplification produced under the great seal. Demurrer and joinder, *Wi. Ent.* 1112, &c. Judgment for plaintiff, *Vide 3. Lev.* 332, &c.

Plea by incumbent confesses devise by E. R.; presentation of C. the father by M.; death of M.; descent of C. son of C. and conveyance to M. but says that before conveyance by M. to plaintiff C. the son died, and church void, and M. presented him, &c. Traverses that church was void at any time after conveyance to plaintiff. Replication, that church became void during his seisin, &c. and that C. presented by usurpation on him the defendant D. and plaintiff brings original, &c. within six months, &c. traverses that defendant is parson, &c. on the presentation of M.; and this, &c.; wherefore he prays judgment if J. B. ought to be admitted to traverse title of W. Demurrer by incumbent, and for causes that plaintiff concludes ill, is double, multifarious, uncertain, wants form, and traverse is not well introduced, 2. *Lut.* 1128, &c.

Plea by clerk after two protestations confesses part of declarations, and pleads that advowson descended to Queen Elizabeth, on whom M. presented by usurpation three times; descent to James on whom plaintiff presented by usurpation twice; descent to the now king, who presented defendant. Traverse that E. 6. granted to lord C. Demurrer special, *Wi. Ent.* 730. Judgment for plaintiff.

Plea by chancellor, &c. of university of Oxford, patrons protesting that king was not possessed, &c. did not grant to C.; for plea confesses residue of the Count, but further plead that by another act of 3. *Jac.* the chancellor and scholars of the university of Oxford have presentation to every benefice within certain counties at the time when the patron remained popish recusant convict, whereby chancellor, &c. presented another defendant clerk. Like plea by clerk. Demurrer special, *Wi. Ent.* 738. *Vide Hob.* 126. 164. *Wils. Rep.* 11.

That there was another prebendary preceding seised of the advowson, who granted next advowson to grantee of defendant by deed confirmed by bishop, and dean, and chapter

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chapter, with a clause therein contained, that if next avoidance should not fall he granted next avoidance which is the present. Demurrer, *Wi. Ent.* 744.

by clerk, protesting that the king was not seized in right of his duchy of Lancaster; for plea that the king presented him, and plenarty of six months before original purchased. Demurrer, *Wi. Ent.* 751.

by patron and clerk jointly to Count to present by turns by the assignee of the grantee, confesses the greatest part of the Count, and that ancestors of defendant in turn of the other moiety of the manor presented by usurpation the last incumbent, and it now belongs to defendant to present in his turn. Demurrer special, *Wi. Ent.* 761.

by clerk, confesses part of the Count; pleads that the acre of land to which, &c. descended to R. who demised to patron who presented defendant. Traverse that the last avoidance was the next and the first after the devise. Demurrer by patron to Count, and plaintiff demurs to plea, *Wi. Ent.* 768.

by patron and clerk jointly, that T. seized of advowson, devised to patron who presented the other defendant. Traverses that T. devised to plaintiff, and issue, *Wi. Ent.* 770. *Vide Wilf. Rep.* 73.

by patron defendant G. that sir W. S. did not grant to H. lord D. next avoidance *modo et forma*, *prout*, &c. *Bro. Vad.* 350. By defendant B. clerk, prays judgment of the writ, confessing the seisin of the queen, and that she presented P. who was instituted and inducted, and the church was a benefice with cure, &c. of the yearly value of 8l.; and P. having that benefice accepted the other of S. whereby the benefice of M. became void; but further saith church of M. being void the queen presented one N. D. who was instituted and inducted; and that afterwards the queen granted to sir C. H. in fee, who granted over to the said A. S. in fee, who granted over to sir W. S. in fee, and that P. (church being full of D.) was upon the queen's presentation admitted, &c. and that sir W. S. died, and descent to sir W. S. his son and heir, who granted to J. M. for twenty-one years, grant by him to R. H. and defendant G. all his interest therein; church void by resignation of D. and H. and G. presented defendant B. who was admitted, instituted, and inducted into the same. Traverses church void at the time of the last institution of P. Replication, protesting that D. was never admitted, &c. to the church of M.; for plea takes issue on the traverse, *Bro. Vad.* 344.

by patron, that his father seized in fee long before plaintiff's father had any thing in the said advowson died, and descent to him; he presented defendant G. A. and traverses grant to E. W. and H. *prout*, &c. By defendant G. that he is parson imparsoner of the presentation of defendant B. as before. Judgment agreed, takes issue on the traverse in the

By patrons, defendants confess seisin of T. lord M. of one moiety, and of the T. W. of the other moiety, and presentation of G. H. *prout*, &c., but that S. lord M. demised to W. and R. plaintiffs, and to one R. M. the manor of B. to which, &c. for twenty-one years, and R. M. died, and church being void by death G. H. the incumbent, T. W. presented in his turn R. W. and since the church is void by death of said R. W.; and said W. and R. presented R. G. their clerk. Replication maintains the Count, and traverses demise of the manor to W. K. *prout*, &c. *Bro. R.* 407, &c.

Plea by incumbent, that he is parson imparsoner of the presentation of W. K. and R. B. the other defendants, and confesses the seisin of T. S. of a moiety as in the Count; but that T. W. seized of another moiety presented in his turn G. H. *prout*, &c. and that by an avoidance the other defendants present him their clerk, *Bro. R.* 408.

To the plea of one patron R. W. the plaintiff confesses the grant by J. S. the father to J. and H. of the next avoidance, but says that H. died before the avoidance of the church, and J. survived, and then a fine was levied between the plaintiff and the

the said J. S. ; by virtue of which the interest of the said J. was surrendered to plaintiff, and church void by the death of the last incumbent ; the plaintiff presented one S. his clerk and defendant ; the said plaintiff and S. unjustly hinder ; and traverse that J. died and said H. survived, *prout, &c. Bro. R. 413.*

That the king, having the temporalities of the bishop in his own hand, presented to the archdeaconry, and so had the turns, &c. ; and because bishop claims nothing, unless as ordinary. Judgment, that the king have presentation for this turn, *Ra. 531.*

That A. tenant in common of the advowson, presented by usurpation in the turn of B. the other tenant in common ; A. granted next avoidance to defendant, and traverse that the latter clerk was presented by B. *Co. Ent. 497.*

Plea by one defendant, he did not hinder ; the other says that bishop collated P. to the hospital, and afterwards the king, having the temporalities in his own hand, presented S. who resigned, and another bishop collated E. to the hospital, on whose death it is now vacant. Traverse that the hospital was vacant whilst the temporalities of the bishop were in the king's hand, *Ra. 531.*

By patron, confessing part of the Count. Plea, that J. before his conviction granted to defendant next avoidance, who presented the other defendant to the avoidance. By clerk, that J. was seised of the advowson in gross, and granted it to defendant in fee. Traverse that advowson belonged to the manor. Issue, and demurrer to plea of the patron, *Wi. Ent. 773. Hob. 126. Wils. Rep. 11.*

Plea by clerk, confessing part of the Count, and that queen Mary by usurpation presented B. whereby he was seised of the advowson in gross that descended to the king, who presented defendant. Replication, that long before the presentation of B. the bishop N. by usurpation granted to T. who being *factor religionis* was deprived, and the queen presented B. against whom the commissioners for ecclesiastical affairs made a decree, and restored T. who resigned, and the lessee for years presented in the count. Demurrer, *Wi. Ent. 787.*

By patron, that grandfather was seised of advowson, and by indenture, covenanted that after his own death the advowson should remain to the son, who presented to defendant two hundred year and by several assignments and conveyances the advowson came to defendant. Traverse that A. died seised. Like by clerk. Plaintiff a traverser demurs to both pleas *Wi. Ent. 787. Jud. Off. W. Rep. 35. 39.*

#### BY BISHOPS, PATRONS, AND CLERKS.

Bishop claims nothing as ordinary. Clerk takes issue, 2. *Bro. 222. Co. Ent. 265.* Demurrer by bishop to count. Plea by clerk, 2. *Bro. 236. Wi. Ent. 663. Co. Ent. 412.*

Bishop claims as ordinary. Judgment thereon, with *cessante executio* till plea against the other defendant be determined, 1. *Bro. 301. 2. Bro. 212. 225. Wi. Ent. 624. 627. 549. Clif. 619. 623. 2. Mo. Int. 295. 2. Lut. 1092. Co. Ent. 491.* By patron, as of the spiritualities of archbishop of York, 1. *Bro. 299.* Bishop claims as ordinary. Patron and clerk severally plead like plea, 2. *Bro. 219. Wi. Ent. 644. 649. Clif. 615. 2. Mo. Int. 293. 2. Lut. 1078. Ra. 526. Co. Ent. 506. 510, &c. 516. Keil. 54.* By bishop and clerk, 2. *Lut. 1095. Co. Ent. 475. 487. 495.*

Bishop claims as ordinary. Patron and clerk join in plea, *Pl. Gen. 475. Wi. Ent. 691. 712. Co. Ent. 500. Her. 599.* Bishop and clerk join in plea, 1. *Bro. 296. Wi. Ent. 712.*

Bishop claims as ordinary. Patron confesses the action. Clerk pleads to issue, 1. *Bro. 300.* Bishop claims as ordinary. One defendant and clerk severally plead like plea. The other defendant pleads another plea, *Ra. 509.* Bishop, patron, and clerk severally plead title, *Co. Ent. 497.*

## INDEX TO LEADING TITLES OR HEADS

Plea by one defendant, with traverse. Plea by clerk, that he is parson imparsoned of the presentation of defendant, which belongs to him for the cause alleged, with the like traverse, *Ra. 513. Co. Ent. 482.*

Bishop died after the issuing of the writ and before day in bank. Plea by clerk, *2. Bro. 201.*

Bishop claims as ordinary. Patron and clerk severally plead in bar, *Wi. Ent. 624. 627. 630. 773.* Patron and clerk join in plea, *Ibid. 691. 712. 744. 761. 770.*

Bishop claims, &c. Clerk demurs to count, *Ibid. 743.* Bishop claims, &c.

Patron demurs. Clerk pleads, *Ibid. 768.* Bishop claims, &c. Clerk pleads, *Ibid. 787.*

## SIMONY, PLEA OF.

Plea by clerk simony in bar, *Chf. 607.*

That clerk presented by plaintiff obtained another church by simony, and so was not capable of holding another benefice. Replication on the simony, *Ra. 532.*

Bar by statute against simony, and demurrer, *Co. Ent. 476.*

## JUDGMENTS FOR AND AGAINST THE KING.

Judgment for the king on plea that they did not hinder, *Wi. Ent. 710.*

For the king on plea by archbishop as ordinary, with *cessit executio* until, &c. On plea of patron in abatement, to which attorney general demurs, *3. Lev. 15.* And afterwards judgment of *respondeas ouster*, *Ibid. 16.*

Bishop claims as ordinary, the other defendants confess action at the suit of the king, *2. T. Jud. 831. 192. Ra. 530.*

Judgment for the king on *quare impedit* between common persons, for that it appears that the king hath the right of presentation for simony, and clerk not admitted on the presentation of the king although so pleaded, *2. T. Jud. 176.*

For the king at assizes on verdict for him there, *2. T. Jud. 176.* In C. B. on verdict, *Ibid.* On demurrer to plea of bishop, and like to replication of clerk, *Ibid. 179.* On demurrer to declaration, writ awarded to the guardian of the spiritualities, the bishop's seat vacant by the death of bishop after judgment against him, *Ibid. 178.* Against the king on trial at bar, *Ibid. 179.*

For the king on confession of action, *Ra. 530.* On demurrer, *Co. Ent. 474. 516, &c. Jud. 112.* To the bar for one defendant, and replication to the other, *Co. Ent. 496.* On trial at bar, *Ibid. 485.*

For the king where title is found for him in a suit between others, and where clerk confesses that his plea as parson imparsoned was false, *Hob. 194.*

For the king where plaintiff makes default at *nisi prius*, *Ra. 531.*

## FOR THE PLAINTIFF OR DEFENDANT.

On *non informatus*, *Wi. Ent. 656. Pl. Gen. 471. 2. T. Jud. 182. Ra. 222. Co. Ent. 520. Her. 555.* By *nil dicit* where plaintiff *remittitur damna*, *Co. Ent. 509.*

Confession of action and judgment, *1. Bro. 300, &c. Wi. Ent. 663. 2. T. Jud. 182.* And *remittitur damna*, *Ra. 500, &c. 504. 520. Vet. Int. 131.* For plaintiff on demurrer, *Wi. Ent. 732. 2. Lut. 1111, &c. Co. Ent. 505.*

For plaintiff on plea of bishop claiming as ordinary, *Co. Ent. 624. 627. 1. Bro. 301. Co. Ent. 491.*

Judgment to recover presentation against one only where plaintiff first recovered against bishop and patron, *1. Bro. 301.* And against bishop by default, *Jud. 110.*

For plaintiff at assizes on verdict against clerk where plaintiff first recovered against patron and bishop, *Bro. Vad. 316.* And writ to the sheriff of plenarty of the church.

For plaintiff on verdict at assizes, *Wi. Ent. 777.* For plaintiff, *Hob. 327. Jud. 110.* By defendant, confession of action, with a *relata verifications*, *1. Bro. 301.* By bishop and clerk, *2. T. Jud. 190.*

Judgment

Judgment after *cur. adv. vult.* on demurrer to a plea pleaded to a writ of deceit brought upon a recovery in *quare impedit* at the assize, with a writ awarded to oust the clerk in possession, and restore the former clerk ousted by recovery, *Bro. Vad.* 301.

Verdict for plaintiff, and judgment that plaintiff recover against chapter and incumbent, and damages to the value, *2. Mo. Int.* 295. Reciting the former judgment against the bishop, and judgment of writ to the bishop, *Ibid.* 296.

For plaintiff at assizes on verdict for him there found without damages and costs assessed, *2. Mo. Int.* 189. Verdict and judgment for plaintiff at assizes, *Ibid.*

Judgment for defendant, plaintiff makes default at assizes, *2. Mo. Int.* 190.

For plaintiff on special verdict at assizes in which plenarty of the church is omitted, whereon inquisition awarded, and on the return judgment for the value of the church for half a year, *2. Mo. Int.* 191.

For defendant on certificate by the ordinary of plenarty for six months, *2. Mo. Int.* 192.

For plaintiff on return of writ of enquiry, *Ra.* 507. *Co. Ent.* 490. *5. Co.* 58. *Vet. Int.* 26. At *nisi prius*, *Ra.* 508. *Co. Ent.* 507. *Kiel.* 57. *Vet. Int.* 74. *1 Cro.* 423

On plea in abatement of the writ, *Ra.* 524. At *nisi prius* where church is full of the king's clerk pending the plea, *Co. Ent.* 265.

For plaintiff against clerk where plaintiff first recovered against patron and bishop, *A/b.* 381. *Non prof.* before declaration, no writ to the bishop, *T. 8. E.* 3. 45. After imparlance, *Her.* 556.

For defendant at king's suit for want of replication, *Ra.* 531. *Vet. Int.* 112. For defendant on demurrer. *Plo.* 503. *Ra.* 498. 503. *Co.* 489. 493. 503.

For bishop on demurrer to replication of special hindering, *Ra.* 512.

For defendant where plaintiff *non prof.* and enquiry of damages awarded, *Ra.* 508. 525. *Vet. Int.* 72. And judgment on enquiry of damages, *Ra.* 508. And *re-mittitur damna*, *Ibid.*

By two defendants, where only one had the right of advowson, *Ra.* 508. *Vet. Int.* 71.

*Quare impedit* against bishop. W. and L. the bishop and W. come in their own persons, plaintiff does not, Bishop makes title, and judgment for him, *Ra.* 501.

Plea by defendant, that plaintiff is outlawed, and does not deny. Defendant an abbot makes title to church appropriated and united, and judgment to hold church as before, *Ra.* 497.

Plaintiff does not. Defendant's plea, and judgment for defendant, *Ra.* 515.

For plaintiff on demurrer, *Ra.* 130. *Co. Ent.* 505. On two demurrers, *2. T. Jud.* 180. For defendant on demurrer to plea of bishop and clerk, *Ibid.* 181. Where plaintiff *re-mittitur damna*, *Co. Ent.* 505.

For plaintiff on insufficient plea of defendant without demurrer, *Ra.* 499.

Adjournment, continuance of issue, and demurrer. Judgment for plaintiff on demurrer. Continuance of issue, *2. T. Jud.* 181.

On plea of bishop claiming as ordinary, *Co. Ent.* 491. On certificate of bishop instituting clerk, *Ibid.* 499.

Judgment for plaintiff by default on *distringas*, *Ra.* 504. 507. 525. *Vet. Int.* 110.

Against one defendant where plea pending against the other, *Ra.* 507. Against defendant, who makes default in contempt of the court, where plaintiff in the same term recovered his presentation against two others, *Ra.* 507. *Vet. Int.* 105.

For plaintiff on trial at bar where plaintiff *re-mittitur damna*, *2. T. Jud.* 183. On verdict for value of the church for half a year, *Ibid.* 184. Verdict for plaintiff on *nisi prius* on two issues. Judgment for the half year's value. *Ibid.* 185.

Judgment, plaintiff *re-mittitur damna*, and has a writ to the archbishop for bishop's

seat vacant, for that the dean is party, 2. *T. Jud.* 186. For plaintiff on verdict without damages or costs found, *Ibid.*  
Issue and demurrer. Special verdict. Plaintiff *nolle prosequi* on verdict, and *remittitur damna*, and judgment to recover the presentation, *Ibid.* 187. For plaintiff on inquisition, *Ibid.* 183.

PROCEEDINGS.

Delivery of original writ of record to obtain a writ of *ne admittas*, *Her.* 556.  
Warrant of attorney general to demand judgment and execution by the king on verdict, *Her.* 556.  
Writ of enquiry of the value of the vicarage awarded on judgment, 1. *Bro.* 301.  
*Nolle prosequi* by attorney general at the suit of the king, *Bro. R.* 411. 2. *T. Jud.* 177, &c. *Ra.* 527, &c. *Vet. Lit.* 70. *Jud.* 226. *Her.* 556.  
Verdict for plaintiff at *nisi prius* where church became full on the king's presentation pending the writ. Judgment for value of the church for half a year, 2. *T. Jud.* 184.  
*Pone* in *quare impedit* where bishop was effoigned until Oct. Trin. and incumbent had the same day, *Bro. Vad.* 338. with the entry thereof, *Ibid.* 390. Against the bishop of L. upon a *pluries venire factus clericum* where bishop sent not the writ, and entry thereof, *Ibid.* 389.  
*Pone* at king's suit upon summons and entry, *Bro. Vad.* 389. With adjournment, *Ibid.* 390. After effoin against one and *disfringas* against another, *Ibid.* 391. with entry thereof.  
Entry of *pone* after several effoins, with the same day to others, as also several adjournments of the term, *Bro. Vad.* 392. with a *disfringas* in the same writ, and the entry, *Ibid.* 393.  
Writ awarded to archbishop of York, seat being full, where the guardians of the spiritualities archbishop's seat vacant were parties, 1. *Bro.* 299.  
*Alias* summons in *quare impedit*, *Clif.* 601.  
Entry of original writ, *pone*, and appearance. *Clif.* 601.  
Writ to bishop to admit clerk on *non prof.* *Clif.* 607. To admit clerk on death of plaintiff, *Ibid.* To certify of whose presentations, *Ibid.* 610. and return. To remove clerk, *Ibid.* 613. 2. *Mo. Int.* 296.  
Inquisition of the true value of church, *Clif.* 614. Award of value, 2. *T. Jud.* 191. Return by bishop, that he admitted plaintiff's clerk according to the writ, *Ibid.* 192. Enquiry of value and damages awarded on judgment, *Ra.* 502. 510.  
*Alias* writ to admit clerk awarded, *subpœna*, *Ra.* 502.  
Plaintiff after writ continued on judgment for guardians, &c. *remittitur damna*, *Jud.* 157.

ENTRIES, &c.

A. W. mother and guardian of J. W. patron, within age of fourteen (and seised of advowson of church in gross with cure of souls), made simoniacal contract with C. G. incumbent, that he should pay A. two hundred and fifty pounds when J. should present C. to the church, *B. R.* 410. 2. *Lut.* 1086. 3. *Lew.* 12.  
Several pleas in bar by two infants, *Lew. Ent.* 138.  
Bishop claims nothing as ordinary. Judgment against him. Patron confesses action, and clerk with a *relicta verificatione* costesses action. Judgment against them, and execution as appears by the roll, 1. *Bro.* 301.  
Judgment against the bishop, and writ awarded. Issue upon the other defendant's traverse. *Venire* awarded. Plaintiff makes default to plaintiff. C. dies after the last continuance, and W. plays a new writ of *venire facias*. Defendant denies, and says that writ of *quare impedit* abates by death of plaintiff C. without issue. Plaintiff joins in demurrer. Afterwards defendant comes and pleads  
Release

Release by plaintiff to defendant after the last continuance. Plaintiff imparls, and after makes default. Judgment for defendant by default, with remission of damages, *Bro. Rud.* 364, &c.

An assize of *darrein presentment*, *Clif.* 611.

Death of the king at Westminster, and does not say *diem suam clausit extremum*, *Bro. R.* 410.

Where the government and crown of England after death of Car. 2. late king descended to Jac. 2. as brother and heir of said late king, *Clif.* 611.

Incumbent, by certain persons taking upon themselves pretended authority, by colour of a certain ordinance of lords and commons in parliament assembled, was in fact collated, and then recites the statute 12. Car. 2. to continue in possession, &c. *Clif.* 604. 620.

Several issues joined to be tried by men of two counties, and judgment for plaintiff against one defendant for a moiety of church, to which there is no answer, and afterwards two defendants separately confess action, with *scilicet verificatione*. Repleader awarded on the issue joined between plaintiff and bishop, and process continued thereon, for that church is full by collation of bishop on lapse, and judgment for bishop against plaintiff, as it appears in another term; and judgment for two years value, *Ra.* 510. 33. H. 6. 13.

Count against bishop, that he together, &c. and claims nothing but as ordinary: Judgment against him, and execution, for that plea against the others is determined, as appears by the same roll in which judgment is immediately entered by default against patron on *strings*, and death of clerk returned, *Hic.* 545.

Plaintiff as to moiety of church, whereof defendant says nothing in bar, prays judgment, 33. H. 6. 13. *Ra.* 510.

Clerk at the conclusion of his plea on the title says that he *dedit* the presentation to the bishop, and *ipsum laboravit ad institutionem*, &c. which are the same hinderings, 33. H. 6. 13.

Issue joined at the king's suit. W. for the king informs the court that defendant intends to sue the presentee of the king in *curia romana*, and prays that defendant thereon may take the oath and find security, and defendant being present agreed to do it. Bail thereto, *Ra.* 528.

Clerk admitted and instituted to the presentation without alledging induction, *T. 5. E. 3. 12.* Admission on presentation and pignarty for six months and more, *Co. Ent.* 471, &c.

Dispensation to the bishop to take benefice *in commendam*, *Co. Ent.* 473.

#### WRITS.

Writs awarded on judgments to bishop, *Ra.* 504. 507. 521. 528. *Co. Ent.* 507.

Diocesan where archbishop is party, *Ra.* 503. Cardinal ordinary of the place, *Ibid.* 507. Metropolitan where bishop died after last continuance, *Ibid.* 500.

*Vet. Int.* 131. Guardian of spiritualities where bishop died after judgment, *Co. Ent.* 494. Archbishop where bishop is party, *Ra.* 521. 528. *Co. Ent.* 498. *Vet.*

*Int.* 26. *Hic.* 555. During vacancy, *Dy.* 328. Vicar general of archbishop, *Ra.* 514. Archbishop of C. where archbishop of Y. is party, *Co. Ent.* 496.

Archbishop defends, who was ordinary of the place in the time of the vacancy of the church, and afterwards translated where prior bishopric is vacant, *Kiel.* 54.

Writs awarded to bishop to certify admission of clerks, *Ra.* 498. 533. *Co. Ent.* 498.

#### PRESENTATIONS.

Presentation by king in right of ward, *Wi. Ent.* 746. 758. 765. *Vet. Int.* 112. For lunacy, *Wi. Ent.* 629. *Lapse*, 2. *Bro.* 640. *Wi. Ent.* 640. 709. 747. *Ro. Ent.* 375. 384. *Pl. Gen.* 487.

Parson of church created bishop, and queen by virtue of her prerogative presented, *Wi. Ent.* 767. 3. *Lew.* 144. By grantee of the king for outlawry in debt, *Wi. Ent.* 663. By being outlawed for felony, *Vet. Int.* 27. Husband and wife

seised in right of his wife, *Wi. Ent.* 708. 770. *Vet. Int.* 111. 27. Two husbands and wives, &c. *Her.* 544.  
by usurpation on the king, *Wi. Ent.* 666. 692. By bishop collating on *lapse*, *Ibid.* 708.

That it belongs to plaintiff son and heir of the eldest sister to present, for that she and other parceners could not agree, *Her.* 547.

#### ADVOWSON APPENDANT AND IN GROSS.

Advowson of church belongs to the manor, *Ra.* 500. 504. *Co. Ent.* 264. 468. 498. *Her.* 28. To fourth part of the manor, *Ra.* 504. Moiety, *Ibid. Vet. Int.* 110. Two parts of advowson to one manor, and third to another, *Co. Ent.* 485. *Dy.* 299. Third part to present in third term belonging to third part of manor, *Her.* 548.

Advowson of moiety belongs to manor, and other moiety in gross and presentation to entire church, *Ra.* 509. To eleven ox-gangs of land, *Ibid.* 516. *Vet. Int.* 111. To one acre, *Ibid.* Advowson of abbey belonging to manor, *Ra.* 496.

Priory in marshes of Wales to cattle, *Her.* 545. Hospital to manor, *Dy.* 300. Chapel, *Ra.* 636. Vicarage to rectory, *Co. Ent.* 62. 495. 520. *Her.* 553. With chapels annexed to rectory, *Co.* 639.

Advowson in gross, *Ra.* 497. Of moiety, *Co. Ent.* 491. Donation of church appendant, *Kiel.* 53.

Plaintiff seised of one acre of land in C. and advowson of church of the same vill, *Ra.* 499.

#### CHURCH VOID.

By death, *Ra.* 497. 504. *Co. Ent.* 475. Resignation, *Ra.* 504. 514. 518. 519. *Co. Ent.* 264. 473. 496. 500. *Her.* 545. Deprivation, *Ra.* 497. 500. 503. *Co. Ent.* 471. 486. 507. *Pla.* 493, *Vet. Int.* 111. *Her.* 28. Privation, *Co. Ent.* 480. 498. *Dy.* 292. Deprivation for cause of matrimony, and to favour religion, *Co. Ent.* 487. 5. *Co.* 102. *Dy.* 133.

By cession, and accepting another benefice without qualification, *Co. Ent.* 492. 502. *Her.* 554. Not reading articles, *Ibid.* Of prebend by electing prebendary to be dean, *Ra.* 531.

#### QUARE NON ADMISIT.

Count thereon where bishop refused to admit plaintiff's clerk on two writs of judgment in *quare impedit* and king's letters under his privy seal. Plea, that bishop awarded a *jure patronatus* on the writ delivered, and plaintiff requested a month's time, and afterwards did not come, *per quod* defendant presented by *lapse*, and traverses delivery of the writ. Replication, that he requested expedition of the bishop, and traverses requesting time, *Ra.* 534. *Vet. Int.* 183.

Enquiry of damages on judgment by *nil dicit*, *Ra.* 535.

# REAL ACTIONS.

## PARTITION.

**G**EORGE the Third, by the grace of God, of Great Britain, <sup>Original writ,</sup> France, and Ireland, king, defender of the faith, and so <sup>2. Blac. Rep.</sup> forth, to the sheriff of Derbyshire, greeting: If B. B. and T. B. <sup>1134.</sup> shall give you (surety or pledges) that their writ shall be prosecuted, then summon, by good summonses, W. B. B. B. the younger, T. B. T. S. and Elizabeth his wife, A. B. Rachael B. and D. B. that they be before our justices at Westminster in eight days of the Purification of the Blessed Virgin Mary to shew wherefore whereas the same B. S. W. B. F. Elizabeth, Ann, Rachael, and D. hold together and undivided one messuage, one barn, two stables, one garden, one orchard, and twenty-five acres of meadow land for all manner of cattle, with the appurtenances, in Hilton, the said W. B. T. Elizabeth A. R. and D. deny partition thereof to be made between them according to the form of the statute in such case made and provided, and unjustly permit not the same to be done, and contrary to the form of the said statute as they say, and have you there the summonses and this writ. Witness ourself at Westminster, the twenty-third day of January, in the thirty-second year of our reign.

JACKSON.

Derbyshire, to wit.

Pledges to prosecute { JOHN DOE  
and  
RICHARD ROE.

Summoners of the within-named W. B. B. B. T. B. T. S. and Elizabeth his wife, A. B. Rachael, and D. B. are,

JOHN D. FOWLER,  
and

CODWELL WESTROPE.

The answer of

JOHN BROADHURST, Esq.  
Sheriff.

Hilary Term, 32. Geo. III.

**DERBYSHIRE**, to wit. Defendants were summoned to an- <sup>Declaration</sup> swer unto plaintiffs of a plea wherefore whereas the said B. B. the <sup>C. B.</sup> elder, Samuel, and the said W. B. B. B. the younger, T. B. T. S. and his wife, in right of the said E. A. R. and D. hold together and undivided one messuage, &c. &c. [as in the writ], with the appurtenances, in Hilton, the said W. B. B. B. the younger,

## PARTITION.—DECLARATION.—PLEA.

T. B. T. S. and E. his wife, A. R. and D. deny partition thereof to be made between them according to the form of the statute in such case made and provided, and permit not the same to be done, unjustly, and contrary to the form of the statute, &c. : And whereupon the said B. B. and S. by J. F. their attorney, say, that whereas they and the said W. B. B. B. the younger, T. B. T. S. and E. his wife, in right of the said E. A. R. and D. hold together and undivided the tenements aforesaid, with the appurtenances, whereof it belongs to the said B. B. the elder, and S. and the heirs of the said S. to have one moiety of the tenements aforesaid, with the appurtenances, and to the said W. B. B. B. the younger, T. B. T. S. and E. his wife, in right of the said E. A. R. and D. respectively, and their respective heirs, it belongs to have the other moiety of the tenements aforesaid, with the appurtenances, to hold to them in severalty, so that the said B. B. the elder and S. of their moiety belonging to them of the tenements aforesaid, with the appurtenances, and the said W. B. B. B. the younger, T. B. T. S. and Elizabeth his wife, Ann R. and D. of their moiety belonging to them of the tenements aforesaid, with the appurtenances, may severally approve themselves, they the said W. B. B. B. the younger, T. B. T. S. and E. his wife, A. R. and D. deny partition thereof to be made between them according to the form of the statute in such case made and provided, and permit not the same to be done, unjustly, and contrary to the form of the statute, whereupon the said B. B. the elder and S. say, that they are injured, and have sustained damage to the value of pounds; and therefore they bring suit, &c.

*Drawn by MR. TIDD.*

This was an amicable proceeding for the benefit of the demandants; if not, it might be proper to have a special Count, and it should be considered whe-

ther, as the tenants hold their moiety in common, there should not have been several writs against them. (*See Brownl. 157.*)

**Plea by confession of infants by guardian.**

[Copy the declaration to the end, and proceed as follows]: And the said T. S. and E. his wife, by J. F. their attorney, and the said W. B. B. B. the younger, T. B. A. R. and D. by O. P. who is admitted by the court of our lord the king now here to prosecute and defend for the said W. B. B. B. the younger, T. B. A. R. and D. who are respectively infants within the age of twenty-one years, as the guardian of the said W. B. B. B. the younger, T. B. A. R. and D. come and defend the force and injury when, &c. and say that they cannot deny the aforesaid action of the said B. B. the elder and S. nor but that partition ought to be made between them and the said B. B. the elder and S. of the tenements aforesaid, with the appurtenances, in form aforesaid; and they freely consent that partition thereof may be made between them, &c. : Therefore it is considered that partition be thereof made between the said B. B. the elder and S. and the said W. B. B. B. the younger, T. B. T. S. and E. his wife, A. R. and D.

of

**Judgment.**

## PARTITION—WRIT OF.

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of the tenements aforesaid, with the appurtenances; and it is commanded to the sheriff that in his proper person he go to the tenements aforesaid, with the appurtenances, and there, in the presence of the parties aforesaid, by him to be forewarned, if they shall be willing to be present, the tenements aforesaid, with the appurtenances, by the oath of good and lawful men of his county, respect being had to the true value of the said tenements, with the appurtenances, he cause to be divided into two equal moieties, and one moiety thereof he cause to be delivered and assigned to the said B. B. the elder and S. and the other moiety thereof to the said W. B. B. the younger, T. B. T. S. and E. his wife, A. R. and D. to be holden in fealty, so that neither the said B. B. the elder and S. nor the said W. B. B. the younger, T. B. T. S. and E. his wife, A. R. and D. may have more than respectively belongs to them of the tenements aforesaid, with the appurtenances; and that the said B. B. the elder and S. of their moiety belonging to them of the tenements aforesaid, with the appurtenances, and the said W. B. B. the younger, T. B. T. S. and E. his wife, A. R. and D. of their moiety belonging to them of the said tenements, with the appurtenances, may severally approve themselves; and that that partition by the said sheriff so distinctly and openly made he have under his seal and the seals of those by whose oath he shall have made the same partition, together with the writ of our said lord the king to him thereupon directed, the same day is given to the parties aforesaid here, &c.

*Drawn by MR. TIDD.*

The tenant  
having appear-  
ed, must con-  
fess the action

George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. greeting: Writ of part  
tion.  
Whereas W. B. B. B. the younger, T. B. T. S. and E. his wife, A. B. R. B. and D. B. were summoned to be in our court before our justices at Westminster to answer unto B. B. the elder and S. B. of a plea wherefore whereas the said B. B. the elder and S. and the said W. B. B. B. the younger, T. B. T. S. and E. his wife, in right of the said E. A. R. and D. hold together and undivided one messuage, &c. [as in the original writ] with the appurtenances, in Hilton, the said W. B. B. B. the younger, T. B. T. S. and E. his wife, A. R. and D. denied partition thereof to be made between them according to the form of the statute in such case made and provided, and permitted not the same to be done, unjustly, and contrary to the form of the statute aforesaid: And the said T. S. and E. his wife, by J. F. their attorney, and the said W. B. B. B. the younger, T. B. A. R. and D. appearing in our said court before our justices at Westminster aforesaid, by O. P. who was admitted by the same court to prosecute and defend for the said W. &c. [state the defendant's names] who were respectively infants within the age of twenty-one years, as the guardian of the said W. &c. freely consented that partition thereof might be made between them, whereupon it was considered in our same court before our justices at Westminster aforesaid

Stat ng the wr

said that partition should be made between them of the tenements aforesaid, with the appurtenances; therefore we command you, that taking with you twelve good and lawful men of the neighbourhood of Hilton aforesaid, by whom the truth of the matters may be the better known, you go in your proper persons to the tenements aforesaid, with the appurtenances, and there, in the presence of the parties aforesaid, by you to be forewarned if they shall be willing to be present, the same tenements, with the appurtenances, by the oath of the said twelve good and lawful men, respect being had to the true value of the tenements aforesaid, with the appurtenances, you cause to be divided into two equal moieties, and one moiety thereof you cause to be delivered and assigned to the said B. B. the elder and S. and the other moiety to the said W. &c. to be holden in severalty, so that neither the said B. B. the elder and S. nor the said W. &c. may have more than respectively belongs to them of the tenements aforesaid, with the appurtenances, and the said B. B. the elder and S. of their moiety belonging to them of the tenements aforesaid, with the appurtenances, and the said W. &c. of their moiety belonging to them of the said tenements, with the appurtenances, may severally approve themselves, and that that partition by you so distinctly and openly made you have here from the day of the Holy Trinity in three weeks under your seal and the seals of those by whose oath you shall have made that partition, and have you there the names of those by whose oath you shall have made the same partition, and this writ. Witness Alexander lord Loughborough, at Westminster, the      day of      in the thirty-second year of our reign.

*Drawn by MR. TIDD.*

Clif. 564. Bro. R. 253. Off. Br. 153.

*Sheriff's return to the writ of partition, which must be recited verbatim.* [Copy the declaration and judgment for a partition, and proceed as follows]: At which day came here as well the said B. B. the elder and S. by their attorney aforesaid, as the said T. S. and Elizabeth his wife by their attorney aforesaid, and the said W. B. B. B. the younger, T. B. A. R. and Dorothy, by their guardians aforesaid; and the sheriff, to wit, Hugh Bateman, esquire, sheriff of Derbyshire aforesaid, now here returns a certain partition, made by and before him the said sheriff, between the parties aforesaid, of the tenements aforesaid, with the appurtenances, by virtue of the writ aforesaid, by the oath of twelve good and lawful men of his county, which partition follows in these words, to wit, Derbyshire to wit: J. Hugh Bateman, esquire, sheriff of the county aforesaid, by virtue of a writ of our lord the king to me directed, and to this indented partition annexed, in my own proper person, this twentieth day of June, in the thirty-second year, &c. and A. D. 1792, taking with me W. E. &c. (the twelve men of his county) twelve good and lawful men of the neighbourhood of Hilton, in my county, and in the presence of B. B. the elder and S. B. the plaintiffs in the writ named, and also in the presence of William

William B. Benjamin B. the younger, Thomas B. Thomas S. and Elizabeth his wife, Ann B. Rachael B. and Dorothy B. the defendants in the said writ, and in the presence also of W. Whitmore in the said writ named, came to the tenements and the appurtenances in the said writ named, and thereupon the oaths of the said jury, respect being had to the true value of the same tenements, with the appurtenances, caused the same tenements, with the appurtenances, to be divided into two equal moieties, and one moiety thereof, that is to say, all that piece or parcel of land being the westwardly part of a certain close called Hargasterstead, containing by estimation twelve acres, three roods, and thirty-two poles, also all that close called the Farfield, containing by estimation seven acres, two roods, eight poles, also all that close called Smith Furlong, containing by estimation two acres, three roods, and eighteen poles, also all that close called the Town Close, containing by estimation one acre and three roods, and also all that close called the Poor Close, containing by estimation three acres and two roods, which said last-mentioned close is for ever after to continue chargeable with and liable to the payment of one pound a year to the poor of Hilton aforesaid, and also to the payment of ten shillings a year for the use of the charity school at Hilton aforesaid, I the said sheriff, on the same twentieth day of June, in the year aforesaid, caused to be delivered and assigned to the aforesaid B. B. the elder and Samuel B. in the said writ named to hold to them in severalty, according to the form and effect of the same writ, and as I am by the said writ commanded, which moiety of the said tenements, with the appurtenances, in the said writ specified, was delivered and assigned to the said B. B. the elder and Samuel B. in form aforesaid; and as to the remaining moiety of the said tenements, with the appurtenances, in the said writ named, that is to say, all that dwelling-house situate and lying at Hilton aforesaid, with the out-building thereunto belonging, now in the possession of the said B. B. the elder, also all that piece or parcel of land, &c. &c. &c. [describing it], all which said premises hereinbefore mentioned to be divided are situate, lying, and being in Hilton aforesaid, and now are in the several tenures of the said B. B. the elder, J. A. and T. T. I the said sheriff, on the same twentieth day of June, in the year aforesaid, caused to be delivered and assigned to the aforesaid William B. B. the younger, Thomas B. Thomas S. and Elizabeth his wife, A. B. R. B. and D. B. in the same writ named, to hold to them in severalty, according to the form and effect of the said writ, and as I am by the said writ commanded, which last-mentioned moiety of the said tenements, with the appurtenances, in the said writ specified, was delivered and assigned to the aforesaid William B. &c. in form aforesaid; in testimony whereof, as well the seal of me the aforesaid sheriff, as also the seals of the aforesaid jury, are annexed to this indented partition, dated the day and year first above written; therefore it is considered that the partition aforesaid be holden firm and effectual for ever, &c.

*Drawn by MR. TIDD.*  
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# I N D E X.

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## PARTITION.

(PROCEEDINGS IN.)

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Declaration in partition. Judgment in partition. *Writ de  
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tition, - - - 2. Crom. Pr. 312. 315. 317. 319  
Declaration in C. B. for partition between two tenants, - Pl. Aff, 304

## WASTE.

(PROCEEDINGS IN.)

(See TORT for ACTIONS in the Nature of—.)

Writ of waste against tenant in dower, . 2. Crom. Pr. 323.  
Writ of waste against tenant for life or years, . *Ibid.*

WRIT

## WRIT OF DOWER.

(WITH THE PROCESS.)

**G**EORGE the Third, to the sheriff of Norfolk, greeting: We command A. B. C. that justly and without delay they render to J. L. widow, who was the wife of R. L. deceased, her reasonable dower which belongs to her of the freehold tenements which were of the said R. L. formerly her husband in the several parishes of , in the county of Norfolk, whereof she hath nothing, as she says, and whereof she complains that the said A. B. and C. unjustly deforce her, &c.

*Drawn by MR. TIDD.*

If the premises lie in two different counties, there must be two writs of dowers directed to the respective sheriffs of these counties. These writs should be brought against all the tenants of the freehold, and are issued by the curfiter. The first process upon those writs is a *summons* by the sheriffs to his officers, which may be either served upon the tenants personally, or left at their houses or lands demanded by the writs.

In the latter case it is usual to set up a white stick or wand upon the premises, and by stat 31. Eliz. c. 3. *proclamation* must be made at the door of the

parish church on a Sunday fourteen days at least before the return of the writ. The tenants being summoned, either *cast an essoin*, appear, or make default; if they cast an essoin the demandant must adjourn till the fifth return; after if they appear at the return of the writ of summons, or appear upon the adjournment of the essoin, the demandant shall account; but if they make default, a *grand cape* issues to seize the lands and warn the tenants to appear to excuse their default, which if they do, or the demandant release it, he shall count; but otherwise he shall have final judgment.

Common Pleas, Easter Term, 33. Geo. III.

**NORTHUMBERLAND**, to wit. Mary, otherwise Maria Ilderton, widow, who was the wife of Thomas Ilderton, esquire, deceased, by Townley Ward her attorney, demands against Charles Ilderton the third part of ten messuages, ten barns, ten stables, four gardens, four orchards, one water corn mill, two thousand acres of land, two hundred acres of meadow, two thousand acres of pasture, two thousand acres of moor, and two hundred acres of wood land, with the appurtenances, in the parish of Ilderton, in the county of Northumberland, as the dower of the said Mary, otherwise Maria, of the endowment of the said Thomas, heretofore her husband, whereof she hath nothing, &c.

*Declaration.*

**Plea, or  
accouple.**

And the said Charles Ilderton, by Richard Stewardson his attorney, comes and says that the said Mary, otherwise Maria, ought not to have her dower in this behalf as having been the wife of the said Thomas Ilderton deceased, because he says *that the said Mary, otherwise Maria, never was accoupled to the said Thomas Ilderton deceased in lawful matrimony*; and this the said Charles Ilderton is ready to verify; and therefore he prays judgment, if the said Mary, otherwise Maria, ought to have her dower of the messuages and tenements aforesaid, with the appurtenances.

**Replication.**

And the said Mary, otherwise Maria, by the said Townley Ward her attorney aforesaid, says that she ought not by any thing in the plea of the said Charles above alledged to be barred from having her dower aforesaid in this behalf, because she says *that she the said Mary, otherwise Maria, on the sixth day of September, in the year of Our Lord 1774, was accoupled to the said Thomas Ilderton, deceased, in lawful matrimony at Edinburgh, in that part of Great Britain called Scotland*; and this she prays may be inquired of by the country, &c.

S. LE BLANC.

**Demurrer.**

And the said Charles saith that the said plea of the said Mary, otherwise Maria, in manner and form aforesaid above pleaded by way of reply to the said plea of the said Charles by him above pleaded, and the matters therein contained, are not sufficient in law for the said Mary, otherwise Maria, to have or maintain her said action thereof against him, and that he the said Charles is not bound or obliged by the law of the land to make answer thereto, and this he is ready to verify; therefore for want of a sufficient replication in this behalf, the said Charles as before prays judgment, and that the said Mary, otherwise Maria, may be barred from having her dower aforesaid in this behalf, and for causes of demurrer in law in this behalf, the said Charles, according to the form of the statute in such case made and provided, specially sets down, and shews to the Court here the causes following, that is to say, that the said supposed marriage in the said replication mentioned, and therein alledged to have been celebrated in that part of Great Britain called Scotland, is not a marriage whereby or by reason whereof the said Mary, otherwise Maria, can by law claim

That the said marriage alledged is not such whereby plaintiff can claim dower.

That plaintiff has not laid any place by way of venue where the marriage was had.

That she hath concluded to the country.

Hath attempted to draw to a trial by the court what is of ecclesiastical cogni-

tioned, and also for that the said plaintiff has *not laid any place by way of venue where the said supposed marriage was had*, and also for that the said replication is ill concluded by being concluded to the country, and for that the said Mary, otherwise Maria, hath by her said replication and the conclusion thereof attempted to put in issue, and draw to a trial by a jury of the country, a matter that is not by law triable by a jury of the country, but which is of ecclesiastical cognizance, and which ought to be tried by the certificate of the bishop, to whom the right of certifying whether the said Mary, otherwise Maria, and Thomas Ilderton were or not accoupled in lawful matrimony belongs, and also that it does not

appear

appear to the court here, by the said replication, to what bishop or other spiritual judge or person any writ can or ought to be directed or sent to enquire and certify whether the said Mary, otherwise Maria, was accoupled to the said Thomas Ilderton, deceased, in lawful matrimony or not, and also for that the said replication is in other respects defective, and wants form.

J. ADAIR.

And the said Mary, otherwise Maria, by the said Townley Joinder. Ward her attorney aforesaid, says, that the said plea of her the said Mary, otherwise Maria, in manner and form as the same is above pleaded by way of reply to the said plea of the said Charles by him above pleaded, and the matters therein contained, are sufficient in law for the said Mary, otherwise Maria, to have and maintain her said action against him the said Charles; which said replication, and the matters therein contained, the said Mary, otherwise Maria, is ready to verify and prove as the court here shall award; and because the said Charles hath not answered the said replication, nor in any manner denied the same, the said Mary, otherwise Maria, prays judgment and her dower of the messuages and tenements aforesaid, with the appurtenances, &c.; and because the justices of our said lord the king here will advise themselves of and upon the premises before they give their judgment thereon, day is given to the parties here until to hear judgment thereon, for that the said justices here are not yet advised thereof, &c.

*Cor. adv. week.*

S. LE BLANC.

Pleas before sir James Eyre, knight, and his companions, justices of our lord the king of the bench of Trinity term, in the thirty seventh year of the reign of our sovereign lord George the Third, king of Great Britain, France, and Ireland, defender of the faith, and so forth.

SARAH HARRIS, WIDOW, } SURREY, to wit. Sarah Harris, widow, who was the wife of Michael Harris, deceased, by C. H. her attorney, demands against John Westerman the third part of ten messuages, ten dwelling-houses, ten yards, ten backslides, ten workhouses, ten sheds, and ten acres of land, with the appurtenances, in the parish of Saint Olave, in the borough of Southwark, in the county of Surry, as the dower of the said Sarah of the endowment of the said Michael heretofore her husband, whereof she hath nothing, &c.

*Proceedings in a writ of dower under nihil habet where the husband died seized.*

And the said John, by B. D. his attorney, comes and saith that the said Sarah ought not to have dower of the tenements aforesaid, with the appurtenances, of the endowment of the said Michael; because he says, that the said Michael, late husband, &c. neither on the day he married the said Sarah, nor ever afterwards, was

*Plea.*

*seized*

seised of the tenements aforesaid, with the appurtenances, whereof, &c. of such an estate as he could thereof endow the said Sarah; and of this he puts himself upon the country, &c.; and the said Sarah doth so likewise; therefore the sheriff is commanded that he cause to come in twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.

**Jury respited.**

Surry, to wit. The jury between Sarah Harris plaintiff, and John Westerman defendant, in a plea of dower, is respited here until on the morrow of All Souls, unless his majesty's justices assigned to take the assizes in and for the county of Surry shall first come on Monday the seventh day of August at Croydon, in the said county, according to the form of the statute in that case made and provided for default of the jurors because none of them did appear; therefore let the sheriff have the bodies of the several persons mentioned in the pannel annexed to the writ of *habeas corpus jurata*; and be it known that the justices here in court in this same term delivered a writ thereupon to the deputy sheriff of the county aforesaid to be executed in due form of law.

**Postea, finding that the husband was seised of part of the premises after the marriage.**

Afterwards, that is to say, on the day and at the place within-mentioned, before the right honourable sir James Eyre, knight, the chief justice of our sovereign lord the king of the bench, and sir Francis Buller, baronet, one other of the justices of our said lord the king of the bench, the justices of our said lord the king assigned to take the assizes in and for the county of Surry aforesaid, came as well the within-named Sarah Harris, by her attorney within named, as the within-named John Westerman, by his attorney within named, and the jurors of the jury whereof mention is within-named being summoned come, who to say the truth of the within-contents being elected, tried, and sworn as to the three messuages, two work houses, one garden, and two back-sides, with the appurtenances, in the parish of Saint Olave, in the borough of Southwark, in the county of Surry, parcel of the tenements within specified, whereof, &c. upon their oath say that the within Michael Harris, late husband, &c. after the day when he married the said Sarah, was seised of the said three messuages, two work houses, one garden, and two back-sides, parcel of the tenements within specified, whereof, &c. of such an estate as he could thereof endow the said Sarah; and as to the residue of the tenements within specified, with the appurtenances, the jurors aforesaid, upon their oath aforesaid, say, that the within-named Michael Harris, late the husband, &c. neither on the day when he married the said Sarah, nor ever after, was seised of the said tenements within specified, with the appurtenances, whereof, &c. of such an estate as he could thereof endow the said Sarah, as the said John Westerman has within in pleading alledged.

This cause came on to be tried before the seventh of August 1797, when the defendant obtained a verdict. *Marryatt* for

## DOWER.—JUDGMENT—WRIT OF HABERE FACIAS.

or the tenant contended that the plaintiff ought to have shewn such an estate in her husband as she was dowable of to support the issue; but Justice Buller took distinction, *possession*, and receipt of the rents as *prima facie* evidence of a fee simple estate; and if the party in possession had only a particular estate, it was incum-

bent upon, and in the power of the defendant to shew it, upon which the plaintiff proved by a son of the defendant that his father was tenant of the premises in the lifetime of the defendant's husband, and paid rent to him.—Garrow and Barrow for plaintiff. Marryatt for defendant.

Therefore it is considered that the said Sarah do recover against Judgment the said John her seisin of the said third part of the said three messuages, two work houses, one garden, and two backslides, with the appurtenances, parcel of the tenements within specified, whereof, &c. to hold to her in severalty by metes and bounds; and the said John in mercy, &c.; and hereupon the said Sarah prays a writ of our lord the king to be directed to the sheriff of the county aforesaid to cause her to have full seisin of the said third part of the said three messuages, two work houses, one garden, and two backslides, with the appurtenances, parcel, &c.; and it is granted to her, returnable here on, &c. demandant  
dower.

I have considered, I think, every printed authority upon the subject of this case; and the short result is, that there must be judgment of seisin for a third part of the premises of which it is found by the possee that the defendant is dowable; and that upon that there must be an award of *habere facias seisinam*; but as the defendant's husband did not die seised, no damages can be recovered; for damages are only given by the statute of Merton 20 H. 3. where the husband dies seised; otherwise the next step would have been to have awarded an enquiry of those damages. A writ of *habere facias seisinam* must therefore now issue, which being upon a process by original writ, must have fifteen days between the *return* and return, and must be returnable upon a general return day. With regard to the execution of this writ, it appears that regularly the sheriff ought only to deliver seisin of the third part recovered by metes and bounds whereby to enable the plain-

tiff to maintain an ejectment against the tenants in possession, who are entitled to defend that possession, if it admits of defence; but who have no other mode of doing it than in action of ejectment. Vide *Lindsay v. Lindsay*, 2 Ld. Raym. 1203, 1 Salk. 291. But by analogy to cases of tenancy by *eligiti*, *Jefferson v. Dawson*, 3 Kel. 243, it appears that if the sheriff should deliver actual possession upon this writ of seisin in dower, he may do it legally and the tenants in possession will be bound by it. Under these circumstances I have drawn the writ of seisin with a hope that the quiet possession will be surrendered without resorting to an action of ejectment, for such action can only be defended at a great expence, and as it appears to me in this case without a chance of success on the part of the defendants, the tenants in possession.

THO. BARROW.

GEORGE the Third, by the grace of God, of Great Britain, Writ of *habeas corpus* France, and Ireland, king, defender of the faith, and so forth, to the sheriff of Surry, greeting: Whereas Sarah Harris, widow, who was the wife of Michael Harris, deceased, hath lately in our court before sir James Eyre, knight, and his companions, our justices of the bench at Westminster, by our writ of dower, whereof she hath nothing, and by the judgment of the said court, recovered against John Westerman her seisin of the third part of three messuages

## DOWER.—WRIT of SEISIN.

messuages, two workhouses, one garden, and two backfides, with the appurtenances, in the parish of Saint Olave, in the borough of Southwark, in your county, as the dower of her the said Sarah, of the endowment of the said Michael Harris, ~~her late husband~~, whereof the said John Westerman is convicted, as by the record and proceedings thereof remaining in our said court of the bench at W. aforesaid more fully appears; therefore we command you, that you without delay deliver to the said Sarah seisin of the said third part of the said three messuages, two workhouses, one garden, and two backfides, with the appurtenances, to hold to her in fealty by metes and bounds according to the force, form, and effect of the said recovery, and how you shall execute this our writ certify to our justices at Westminster on, returning to us this our writ. Witness, &c.

Writ of seisin in  
Dower.

GEORGE, &c. to, &c. whereas H. M. and C. his wife, which said C. was the wife of W. C. lately in our court, before our justices at , demanded against R. C. and J. C. tenants in dower, the third part of one messuage, one garden, &c. land, and common of pasture for all cattle, with the appurtenances, in , in your county, as the daughters of the said C. by the endowment of the said W. C. her said late husband, and whereof she nothing hath, &c.; and in such manner it is proceeded in our said court before our, &c. that the said H. M. and C. his wife ought to recover as well the value of the third part of the tenements aforesaid, with the appurtenances, as their damages by reason of the detention of the dower aforesaid, and also to have their full seisin of the tenements aforesaid, with the appurtenances; and we being willing that those things which in our said court are rightly acted be duly executed, therefore we command you, that you cause the said H. M. and C. his wife to have their full seisin of the third part of the tenements aforesaid, and that you enquire diligently, by the oaths of good and lawful men of your bailiwick, when the said W. C. died, and if he died seised of the tenements aforesaid, &c. in his demesne as of fee simple or fee tail, and if by the inquisition to be had thereupon you shall so find then by the oaths aforesaid that you enquire diligently how much the said tenements, with the appurtenances, are worth by the year in , issues beyond reprises according to the true value of the same, as also what damages the said H. M. and C. his wife have sustained as well by the detention of the dower aforesaid beyond the value aforesaid as for their costs, &c. by them about their suit in this behalf expended, and the inquisition you shall make thereupon you shall make manifest to our justices at the first day of next general sessions of assize there to be holden, under your seal and the seals of those by whose oath you shall make that inquisition, and that you have there the names of those by whose oath you shall make that inquisition, and this writ. Witness Alexander lord Loughborough.

GEORGE,

## WRIT OF DOWER.

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GEORGE, &c. to, &c. command T. O. esquire, A. L. and E. his wife, C. B. and H. his wife, that justly and without delay they render to B. C. widow, who was the wife of T. C. esquire, deceased, her reasonable dower which falleth to her out of the freehold which was of the aforesaid T. C. esquire, deceased, heretofore her husband, in the parishes of , whereof she hath nothing, as she saith, and whereof she complaineth that the said T. O. &c. the defendants deforce her, and unless they shall so do, and the said B. C. shall give you security that her suit shall be prosecuted, then summon by good summoners the said T. O. &c. the defendants that they be before our justices at Westminster on , to shew wherefore they will not do it, and have you there the summoners, and this writ. Witness ourself at Westminster, &c. Writ of dower.

GATAKER.

# I N D E X.

## DOWER—PROCEEDINGS IN.

(See PLEAS IN ABATEMENT.)

PRECEDENTS IN  
BOOKS OF PRACTICE,  
REPORTERS, &c.

Declaration in dower under <i>nihil habet</i> . Pleas, <i>ne unques se fin que dower</i> , and <i>ne unques accouple</i> in loyal matrimony,	Mor. Pr. 582
PLEAS as to part in abatement, sole tenancy; to said part, <i>ne unques se fin que dower</i> ; to the residue, <i>non tenure</i> ,	<i>Ibid.</i> 583
Judgment by default, with an <i>imparlance</i> ,	<i>Ibid.</i> 586
Declaration in dower. Pleas by defendant; 1st, <i>ne unques accouple</i> , &c.; 2d, <i>ne unques se fin que dower</i> . Replication to the first plea, a decree in the court of arches, that the demandant was the wife, and is the widow of J. R. and joins issue as to the second plea. Demurrer to the replication to the 2d plea, and joinder. <i>Venire facias</i> awarded on the issue; and continuances on the demurrer; and final judgment for defendant on the demurrer; no respect being had to the issue joined to the country,	Wils. Rep. 118. b.
Plea in bar in dower, that the husband devised land to plaintiff, and avers that the same was in lieu of dower.	
Demurrer, and joinder,	3. Ld. Raym. N. Ed. 151
Plea by tenant by guardian, <i>ne unques se fin que dower</i> , and issue. <i>Venire. Nisi prius. Tales &amp; fleta</i> . Special verdict,	<i>Ibid.</i> 192
Count in dower, with an <i>abridgment</i> of the demand in the writ. Plea by tenant, <i>datem</i> for of Bromley Hall of the endowment of D. lord G. her late husband, because sir T. G. in the time of queen Elizabeth, was seised of the said capital messuage in fee, and by king Jac. 1. was created baron G. of Gerard Bromley, and to the defendant Charles lord G. derives title from the said first lord G. under several descents and settlements, and says that the said demandant ought not to be endowed of Bromley Hall, because the same is <i>caput baroniæ</i> ; avers that tenant did not assign other lands for dower to which she agreed as to the demand of the third part of the hundred of P. and rent; that the tenant is ready to render to the demandant dower of th same hundred and rent. Whereupon judgment for the demandant for the third part of the said hundred and rent. Demurrer to the other part of the plea. Joinder. Judgment for demandant in C. B. affirmed in B. R. on error,	1. Ld. Raym. 72
Dower in dower,	1. R. P. C. B. 435
Tenant by <i>nisi dict</i> in dower,	<i>Id.</i>
by defendant by guardian, that he was always ready to render dower,	<i>Ibid.</i> 437
Ten in dower, husband not seised,	<i>Ibi.</i> 440
Declaration in dower in C. B.	Mod. Plead. 127
	Declaration

PRECEDENTS in  
BOOKS of PRACTICE,  
REPORTERS, &c.

Declaration in dower for a moiety of a messuage and lands in gavelkind,

Lill. Ent. 189

Declaration in dower by *husband and wife* against the heir at law of wife former husband of a third part of messuage and lands. Plea by guardian in bar, that defendant was always, and yet is ready to render dower, &c. *Imparlance*, and judgment for plaintiff by confession for dower, and damages from the issuing the original writ. Writ of *seisin* and enquiry awarded. *Inquisition* thereon, that the husband died seized in fee of the value of, &c. from the suing out the original writ. *Final judgment* to recover the value of the dower. The damages and costs of increase;

*Ibid.* 189. to 192

Replication to plea of release in dower, that demandant released the right of dower to lands in B. traverses that she released dower to demandant's lands,

Mo. Ent. 258

*Capias ad satisfaciendum* in dower for damages on judgment affirmed in B. R. in error out of C. B. and costs for delay of execution,

Lill. Ent. 545

*Writ of seisin* in dower after judgment affirmed in B. R.

*Ibid.* 598

Declaration in dower. Defendant pleads two pleas, 1st, *ne unques accouple*, 2d, *ne unques seise que dower*. Plaintiff replies to the first plea, a decree in the court of arches that demandant was the wife, and is the widow of T. R. and joins issue to the second plea. Demurrer to replication to the first plea, and joinder by plaintiff. *Venire facias* awarded on the issue, and continuances on the demurrer, and final judgment is entered for the defendant upon the demurrer, no respect being had to the issue joined to the country.

1. Will. 118. b.



## FORMEDON.

Common Pleas, Trinity Term, 27. Geo. III.

**N**OTTINGHAMSHIRE, to wit. Sarah Berridge, who is under the age of twenty-one years, by Thomas Astey, her next friend, hereunto specially admitted by the court here, demands against Nicholas Buckley, late of Normanton upon Soar, in the county of Nottingham, gentleman, and John Wildey, late of Sutton Bonnington, in the county aforesaid, cordwainer, forty acres of arable land, twenty acres of meadow land, and twenty acres of pasture land, with the appurtenances, situate, lying, and being in Sutton B. in the county aforesaid, which under and by virtue of a certain act made at the parliament of our sovereign lord George the Third now king of Great Britain, and holden at Westminster, in the county of Middlesex, in the fourteenth year of the reign of our said lord the now king, intituled, "An Act for dividing and inclosing all the open Fields, Meadows, Pastures, and commonable Grounds within the Township or Liberty of Sutton Saint Anns, otherwise Sutton Bonnington, commonly called Saint Anns End, in the County of Nottingham," were set out, allotted, assigned, and appertained unto Elizabeth Berridge, and by her taken and accepted in lieu of and in full satisfaction and compensation for her undivided moiety of certain lands, with the appurtenances, situate, lying, and being in Sutton B. aforesaid, which Matthew Berridge gave to Charles Pestell and Thomas Allsopp, to their heirs and assigns, to the use and behoof of the said Matthew Berridge and his assigns for and during the term of his natural life, without impeachment of or for any manner of waste, and from and after the determination of the estate to the use of the said Charles P. and Thomas A. during the natural life of the said Matthew B. upon trust, to support and preserve the contingent uses and estates after limited from being defeated, barred, and destroyed, and for that purpose to make entries and bring actions, as occasion should require, but nevertheless to permit and suffer the said Matthew B. and his assigns to receive and take the rents, issues, and profits thereof to and for his and their own use and benefit during the life of the said Matthew B. and from and after his decease to the use and behoof of the first son of the body of the said Matthew B. on the body of Elizabeth his wife lawfully begotten or to be begotten, and to the heirs male of the body of such first son lawfully issuing, and for default of such issue to the use and behoof of the second, third, fourth, and fifth, and all and

Declaration by  
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every other son and sons of the body of the said William B. on the body of the said Elizabeth his wife lawfully begotten or to be begotten, whether in his lifetime or after his decease, severally, successively, and in remainder, one after another, as they and every of them should be in seniority of age and priority of birth, and the several and respective heirs male of the body and bodies of all and every such son and sons lawfully issuing, so as that the eldest of such sons and the heirs male of his body issuing should be always preferred and take before the younger of such son and sons and the heirs males of his and their body and bodies lawfully issuing, and for default of such issue to the use and behoof of all and every the daughter and daughters of the body of the said M. B. on the body of the said E. his wife begotten or to be begotten, equally to be divided between such daughters, if more than one, share and share alike, and they to take as tenants in common, and not joint tenants, nor to accrue by survivorship, and to the heirs of the body and bodies of all and every such daughter and daughters lawfully issuing, and failing issue of any of the said daughters then as to the share or shares of such daughter or daughters whose issue should fail to the use of all and every other such daughter or daughters lawfully issuing, and in case all such daughters save one should die without issue, or if there shall be but one such daughter, then to the use and behoof of such surviving or only daughter and the heirs of her body, which said last-mentioned lands, with the appurtenances, after the death of the said Matthew B. and before the said allotment so made as aforesaid, remained to the said Elizabeth B. and Sarah B. which said Elizabeth B. and Sarah B. at the time of the death of the said Matthew B. were the daughters and only issue of the body of the said M. B. on the body of the said E. his wife begotten, by the form of the gift aforesaid (that is to say, one undivided moiety thereof), thereupon remained to the said Elizabeth B. and to the heirs of her body lawfully issuing, and the other undivided moiety thereof thereupon remained to the said Sarah B. and to the heirs of her body lawfully issuing, and which said lands, with the appurtenances, so allotted unto the said Elizabeth B. as aforesaid, after the said allotment thereof, and after the death of her the said Elizabeth B. ought to remain to the said Sarah B. as the surviving and only daughter of the said Matthew B. by the form of the gift and allotment aforesaid, inasmuch as the said Elizabeth, the daughter of the said Matthew B. died without heirs of her body lawfully issuing: And whereupon the said Sarah B. says, that the said Matthew B. was seised of the tenements so given as aforesaid, with the appurtenances, in his demesne as of fee and right in the time of peace in the time of the lord George the Second, late king of Great Britain, &c. by taking the esslees thereof to the value do, &c. and being so seised thereof he the said Matthew B. on the twenty-fourth of September, A. D. 1756, at S. B. in the county of N. aforesaid, by a certain indenture then and there made between the said Matthew B. of the one part, and the said Charles P. and Thomas A. of the other part (one

one part of which said indenture, sealed with the seal of the said Matthew B. the said Sarah now brings here into court, the date whereof is the same day and year aforesaid), for and in consideration of a certain sum of money, to wit, five shillings, therein mentioned to be paid by the said Charles P. and Thomas A. to the said Matthew B. bargained and sold by the said Charles P. and Thomas A. all those several pieces and parcels of arable land, ley, meadow, pasture, and grass ground, with their appurtenances, situate, lying, and being within several open and common fields of and belonging to Sutton, otherwise Sutton B. in the said county of N. or within the liberties, precincts, and territories thereof, containing by estimation two yard-lands and a half, and then or then late in the tenure or occupation of James B. brother of the said Matthew B. his assign or assigns, and were purchased by John B. father of the said Matthew B. of and from William Gray, of Sutton, otherwise Sutton B. aforesaid, gentleman, and also all those several other pieces and parcels of arable land, ley, meadow, pasture, and grass ground, with their appurtenances, situate, lying, and being within the several open and common fields of and belonging to Sutton, otherwise Sutton B. aforesaid, or within the liberties, precincts, and territories thereof, containing by estimation or commonly reputed to be eight acres, or thereabouts, be the same more or less, and then or then late also in the tenure or occupation of the said James B. his assign or assigns, which said last-mentioned lands and premises were purchased by the said John B. of and from Edward Dobson, of Sutton, otherwise Sutton B. aforesaid, yeoman, and also all and singular other the lands, tenements, and hereditaments of him the said Matthew B. situate and being in Sutton, otherwise Sutton B. aforesaid, together with all and singular hedges, ditches, mounds, fences, trees, woods, underwoods, ways, waters, water-courses, easements, paths, passages, shades, baulks, leys, lands, sandens, leasowes, hot grass, tying grass, parting grass, commons and common of pasture, profits, privileges, commodities, advantages, emoluments, hereditaments, and appurtenances whatsoever to the said several pieces and parcels of arable land, leys, meadow, pasture, and grass ground, and premises belonging, or in any wise appertaining, or accepted, reputed, taken, or known as part, parcel, or member thereof, to hold to them the said C. P. and T. A. their executors, administrators, and assigns, from the day of the date of the said indenture for and during and unto the full end and term of one whole year from thence next ensuing and fully to be complete and ended, as by the said indenture appears; by virtue whereof, and by form of the statute for transferring uses into possession, the said C. P. and T. A. became possessed of the tenements last aforesaid, with the appurtenances, the reversion thereof after the determination of the said term of one year belonging to the said M. B. as aforesaid; and the said C. P. and T. A. being so possessed thereof as aforesaid, and the said reversion thereof so belonging to the said M. B. as aforesaid, he the said M. B. afterwards, to wit, on the twenty-

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twenty-fifth of September, in the said year of Our Lord 1756, at Sutton B. aforesaid, in the county of N. aforesaid, by a certain other indenture then and there made between the said Matthew B. and Elizabeth his wife of the first part, John Ludford of the second part, the said C. P. and T. A. of the third part, and Thomas Paget, of Ibslock, in the county of Leicester, gentleman, and Thomas Berridge, of Langor, in the county of Northumberland, yeoman, of the fourth part (one part of which said last-mentioned indenture, sealed with the seal of the said Matthew B. the said S. B. now brings here into court, the date whereof is the same day and year last aforesaid), the said M. B. for the considerations therein mentioned, did release and confirm unto the said C. P. and T. A. in their actual possession then being by virtue of the said bargain and sale, and the said statute for transferring uses into possession, and to their heirs and assigns, the tenements last aforesaid with the appurtenances, to have and to hold the same unto the said C. P. and T. A. their heirs and assigns, that is to say, to the use and behoof of the said Matthew B. and his assigns for and during the term of his natural life, without impeachment of or for any manner of waste, and from and after the determination of that estate to the use of the said C. P. and T. A. during the natural life of the said Matthew B. upon trust to support and preserve the contingent uses and estates thereafter limited from being defeated, barred, or destroyed, and for that purpose to make entries and bring actions as occasion should require; but nevertheless to permit and suffer the said Matthew B. and his assigns to receive and take the rents, issues, and profits thereof to and for his and their use and benefit, during the life of the said Matthew B. and from and after his decease, to the use and behoof of the said son of the body of the said Matthew B. on the body of Elizabeth his wife lawfully begotten or to be begotten, and to the heirs male of the body of such first son lawfully issuing, and for default of such issue to the use and behoof of the second, third, fourth, or fifth, and all and every other the son and sons of the body of the said Matthew B. on the body of the said Elizabeth his wife lawfully begotten or to be begotten, whether born in his life-time or after his decease, severally, successively, and in remainder one after another, as they and every of them should be in seniority of age and priority of birth, and the several and respective heirs male of the body and bodies of all and every such son and sons lawfully issuing, so as that the eldest of such sons and the heirs male of his body issuing should be always preferred and take before the youngest of such son and sons and the heirs male of his and their body and bodies lawfully issuing, and for default of such issue to the use and behoof of all and every the daughter and daughters of the body of the said Matthew B. on the body of the said Elizabeth his wife begotten or to be begotten, equally to be divided between such daughters, if more than one, share and share alike, and they to take as tenants in common and not as join-tenants, nor to accrue by survivorship, and to the heirs of the body and bodies of all and every such daughter and daughters

as lawfully issuing, and failing issue of any of the said daughters, then to the share or shares of such daughter or daughters whose issue should fail, to the use of all and every other such daughter or daughters, to take in like manner as tenants in common, and of the heirs of the body and bodies of such other daughter or daughters lawfully issuing, and in case all such daughters save one should die without issue, or if there should be but one such daughter, then to the use and behoof of such surviving or only daughter, and to the heirs of her body, as by the said last-mentioned indenture appears, by virtue of which said last-mentioned indenture, and by force of the statute for transferring uses into possession, the said Matthew B. became and was seised of the said last-mentioned tenements, with the appurtenances in his demesne, as of freehold, to wit, for the term of his natural life, in the time of peace in the time of our said lord George the Second, king of Great Britain, and by taking the esplees thereof to the value, &c. and being so seised, the said Matthew B. afterwards, to wit, on the thirtieth of October, A. D. 1774, at Sutton B. aforesaid, in the county of N. aforesaid, died without heirs male of the body of the said Matthew B. on the body of the said Elizabeth his wife begotten, leaving issue two daughters Elizabeth B. and the said Sarah B. on the body of the said Elizabeth his wife lawfully begotten, whereupon the said Elizabeth B. and the said Sarah Berridge, by form of the gift aforesaid, became and were seised each in an undivided moiety of the tenements last aforesaid, with the appurtenances, to wit, in their demesne as of fee tail in the time of peace in the time of the now king George the Third, by taking the esplees thereof to the value of, &c. and being so seised thereof as aforesaid, afterwards, to wit, by a certain act of parliament made at the parliament of our sovereign lord George the Third, now king of Great Britain, and holden at Westminster, in the county of Middlesex, in the fourteenth year of the reign of our sovereign lord the now king, intitled "An Act for dividing and inclosing all the open Fields, Meadows, Pastures, and commonable Grounds within the Township or Liberty of Sutton Saint Anns, otherwise Sutton B. commonly called Saint Ann End, in the county of Nottingham," reciting, that within the township or liberty of Sutton Saint Anns, otherwise Sutton B. commonly called Saint Ann's End, in the county of Nottingham, there were several open fields known and distinguished by the names of the Standard Fields, the Rundle Field, the Park Lane Field, and the Nether Field, and also certain meadow, pasture, and commonable grounds, consisting in the whole of fifty yard-lands and an half, and containing together about twelve hundred acres, and also reciting, that the lands and grounds of the several proprietors, thereby intended to be divided and inclosed, lay intermixed and dispersed in small parcels, and it would be advantageous to the several persons interested therein to have the same divided and inclosed; it was enacted, that Thomas Oldknow, John Davys, William Fox, John Watkinson, and William Fillingham, and their successors, to be elected in manner therein

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therein mentioned, should be and were thereby appointed commissioners for the setting out, dividing, allotting, and inclosing the lands and grounds thereby intended to be divided and inclosed, and for putting the same act in execution ; and it was further enacted, that all the lands and grounds thereby intended to be divided and inclosed, and also all the old inclosed ground within the said township or liberty of S. Saint Ann, otherwise Sutton B. commonly called Saint Ann's End, should be surveyed and measured by the said T. O. his agents or assistants, or by such other person or persons as the said commissioners or any three or more of them should order and direct ; and it was thereby further enacted, that the said commissioners or any three or more of them should have full power and authority to set a value without partiality upon all the lands and grounds thereby intended to be divided and inclosed, and also as soon as conveniently might be after the said survey should have been laid before them, and the contents and value of the whole, and the contents and value of each and every part and parcel thereof should be ascertained, to make a division of the said lands and grounds thereby intended to be divided and inclosed, unto and amongst the several persons interested therein, according to certain rules and directions in the said act mentioned ; and it was enacted, that the said commissioners or any three or more of them, after setting out, assigning, and allotting certain particular allotments therein expressed, should divide, set out, and allot all the residue of the said lands and grounds thereby intended to be divided and inclosed unto, between, and amongst the several persons entitled to the same, in proportion to their several and respective shares and interests therein ; and it was further enacted, that nothing in that act contained should be deemed, adjudged, or taken to revoke, alter, extinguish, and annul, or make void any will or settlement, or to prejudice any person having or claiming any jointure, dower, portion, debts, rents, incumbrances, or other demand out of, upon, or affecting any of the lands or grounds thereby intended to be divided and inclosed, or any old inclosed houses or other buildings which might be exchanged by virtue of that act other than leases at rack or extended rent, but that each and every proprietor's allotment be made by virtue of that act, and the old inclosures, houses, or other buildings which might be exchanged as aforesaid, should stand charged and be chargeable with the same debts, rents, and incumbrances, as each and every proprietor's old inclosures, houses, buildings, lands, grounds, and estates respectively, was or were chargeable with, or affected by before the passing of that act ; and it was thereby further enacted, that the lands to be assigned, allotted, and applied unto and for the several and respective persons interested in the lands thereby intended to be divided and inclosed, should within the space of six months next after the signing and sealing the said award, be taken and accepted by each and every of the persons interested therein in full satisfaction and compensation for their and each and every of their several and respective rights and interests therein, and that guardians

guardians of any person or persons being minors should be enabled and required to accept thereof to the use of such minors, and such acceptance thereof should be valid and effectual as if the persons for whom the same should be made respectively were capable of acting for themselves; and it was further enacted, that within the space of six months next after the division and allotment of the lands thereby intended to be divided and inclosed should be completed and finished, the said commissioners, or any three or more of them, should form and draw up, or cause to be formed and drawn up an award or instrument in writing, which should express the quality and contents in statute measure of the acres, roods, and perches contained in the said lands and grounds thereby intended to be divided and enclosed, and the quality and contents of each and every part and parcel thereof assigned and allotted to each of the parties entitled to lands, tithes, common right, or other property, within the same, and a description of the situation, abutments, and boundaries of such parcels and allotments respectively, which said award or instrument should be fairly engrossed upon parchment, and signed and sealed by the said commissioners, or any three or more of them, and should within six months next after the same should be so signed and sealed as aforesaid be enrolled in one of his majesty's courts of record at Westminster, or by the clerk of the peace for the said county of Northampton; and it was declared that the several allotments and divisions so to be made as aforesaid in or by such award or instrument should be binding and conclusive unto and upon all persons entitled to or claiming any property in the said lands and grounds thereby intended to be divided and enclosed; saving always to the king's most excellent majesty, his heirs, and successors, and to all and every other person or persons, bodies politic and corporate, his, her, and their heirs, executors, administrators, and successors, other than and except the several persons to whom any allotment or allotments should be made by virtue of that act and all claiming under them respectively, all such estate, right, title, and interest, as they, every, or any of them had and enjoyed in the lands and grounds thereby intended to be divided and enclosed before the passing of that act, or should or ought to have had or enjoyed therein in case the same had not been made, but no such other person or persons, bodies politic or corporate, his or their heirs, executors, administrators, or successors, should have power to disturb any of the allotments or exchanges to be made in pursuance of that act, but should accept the respective allotments which should be made in lieu of the lands, tithes, common right, and other interest in the said lands and grounds thereby intended to be divided and enclosed, which he, she, or they would have been entitled to in case that act had not been made, and should be entitled to recover such allotments, and all such tenements, lands, and grounds as should be given in exchange for any other tenements, lands, and grounds as fully as he, she, or they would have been entitled to have recovered the lands, grounds, common right,

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and tithes, in lieu whereof such allotments and exchanges should be made as aforesaid, as in and by the said act of parliament remaining on record at Westminster, relation being thereunto had, more fully may appear: And the said Sarah B. further says, that the said lands and grounds in the said indentures mentioned were and are part of the said residue of the said lands and grounds by the said act of parliament directed to be divided and enclosed: And the said Sarah B. further says, that the said T. O. J. D. W. F. John W. and William J. having taken upon themselves the execution of the powers and authorities vested in them in and by the said act of parliament, and having had a survey and admeasurement with a plan of the said open fields, meadows, pastures, and commonable grounds, and also all the old enclosed grounds within the said township or liberty of Sutton Saint Anns, otherwise Sutton B. commonly called Saint Ann's End, duly taken, and having had the said plan and admeasurement laid before them, and it appearing to them by such survey and admeasurement that the lands and grounds intended by the said act to be divided and enclosed contained in the whole one thousand one hundred acres and five perches, or thereabouts, and that the said Elizabeth B. and Sarah B. were, amongst others, the owners and proprietors of the said open fields, meadows, pastures, and commonable grounds intended by the said act to be divided and enclosed, they the said T. O. J. D. W. F. J. W. and W. F. did according to the said act make a division and allotment of the lands and grounds thereby directed to be enclosed within the space of six months next after the said division and allotment was completed and finished, to wit, on the tenth of March, A. D. 1775, at Sutton B. aforesaid, did form and draw up an award or instrument in writing according to the direction of the said act of parliament, and did cause the same to be fairly engrossed on parchment, and did sign and seal the same, and did by such their award or instrument in writing under their hands and seals set out, allot, assign, and appoint unto Elizabeth B. the tenements above demanded by the description of one plot or parcel of land in the said Rundle Field, containing thirty acres, one rood, fifteen perches, or thereabouts, bounded by lands allotted to the said Joseph Smith, by lands allotted to Sarah B. by the turnpike road from Coleston to Rempstone, and by the high road leading from the said turnpike road to Westlake respectively, and was thereby allotted to the said Elizabeth B. in lieu of and full satisfaction of her undivided moiety of all the lands and common right in and upon the lands intended by the said act to be divided and enclosed, lately belonging to the said Sarah B. and Elizabeth B. daughters and coheirs of the said Matthew B. deceased, and did set out, allot, assign, and appoint unto the said Sarah B. one plot or parcel of land in the said Rundle Field, containing thirty-two acres, three roods, and twelve perches, or thereabouts, bounded by lands allotted to Joseph Smith, by lands allotted to Charles Allen and his successors, rector of the rectory of Sutton Saint A. by the liberty of Normanton upon Soar, by  
lands

lands allotted to Thomas Bacon, by the turnpike road leading from Coleston to Rempstone, and six lands allotted to the said Elizabeth B. which was thereby allotted to the said Sarah B. in lieu of and in full satisfaction of her undivided moiety of all the lands and common right in and upon the lands intended by the said act to be divided and enclosed lately belonging to the said Sarah B. and Elizabeth B. daughters and coheirs of the said Matthew B. deceased, as by the said award more fully appears; which said award was within six months after the same was signed and sealed as aforesaid enrolled by the clerk of the peace of the said county of Northampton; which said lands so allotted as aforesaid to the said Elizabeth B. and Sarah B. respectively as aforesaid within six months next after the signing and sealing the said award, to wit, on the same day and year last aforesaid, at Sutton B. aforesaid, were accepted by Thomas Astey, one Henry Cropper and William Hardy, then and there being the guardians of the said Elizabeth B. and Sarah B. who then and there were minors, for the use of the said E. B. and S. B. respectively, in full satisfaction and compensation for their and each of their several and respective rights and interests in the lands by the said act intended to be enclosed; by virtue whereof the said Elizabeth became seised of the lands allotted to her as aforesaid, being the tenements above demanded in her demesne as of fee tail, to wit, to her and the heirs of her body lawfully issuing; and being so seised the said Elizabeth afterwards, to wit, on the sixteenth of December, A. D. 1781, at Sutton B. aforesaid, died without any issue of her body issuing, whereupon the right remaineth to the said Sarah B. the now demandant by the form of the gift and allotment aforesaid, for that the said Elizabeth B. died without issue of her body lawfully issuing; wherefore the said Sarah B. brings suit, &c.

And the said Nicholas Buckley and John Wildey, by William Cradock their attorney, come and defend their right, when, &c. and say, that true it is that the said Elizabeth was in her life time seised of the tenements above demanded in her demesne as of fee tail in manner and form in the Count of the said Sarah above alledged; but they say, the said Elizabeth being so seised before the levying the fine hereinafter mentioned, to wit, on the first of January, A. D. 1778, at Sutton B. aforesaid, a marriage was had and solemnized between the aforesaid Elizabeth and one William Townley, whereupon the said William and Elizabeth, in right of the said Elizabeth, became seised of the tenements above demanded to themselves and the heirs of the body of the said E. and being so seised thereof afterwards a certain fine was levied in the court of our sovereign lord the king here, to wit, at Westminster, in the county of Middlesex, in fifteen days of Saint Martin, in the term of Saint Michael, in the nineteenth year of the reign of George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c.

Plea, that demandant was seised of premises as coheirs with her sister, who married, and levied a fine of premises to the use of her husband and his heirs for ever, and that the warranty descended upon demandant as collateral heir.

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before William de Grey, Henry Gould, William Blackstone, and George Nares, justices of our lord the king, and others then and there present, between John Stokes, gentleman, plaintiff, and the said William T. and Elizabeth his wife the deforceants (amongst other things) of the tenements above demanded by the name of a moiety of eighty acres of land and ten acres of meadow, with the appurtenances, in Sutton B. otherwise Sutton Saint A. in the county of N. whereupon a plea of covenant was summoned between them in the said court, that is to say, that the aforesaid William and Elizabeth acknowledged the aforesaid moiety, with the appurtenances, to be the right of him the said John Stokes, as those which the said John Stokes had of the gift of the aforesaid William and Elizabeth and those they had renised and quit claimed from them the said William and Elizabeth and their heirs to the aforesaid John Stokes and his heirs for ever; and moreover the said William and Elizabeth granted for their and the heirs of the said Elizabeth that they would warrant to the aforesaid John Stokes and his heirs the aforesaid moiety, with the appurtenances, against them the said William and Elizabeth and the heirs of the said Elizabeth for ever: And the said Nicholas B. and John W. further say, that proclamations upon the fine aforesaid were made according to the form of the statute in such case made and provided in manner and form following, to wit, the first proclamation was made the twenty eighth of November, in the aforesaid term of Saint Michael, in the nineteenth year of his present majesty, and the said proclamation was made on the twelfth of February, in the term of Saint Hilary, in the nineteenth year of his present majesty, and the third proclamation on the eighth of May, in Easter term, in the nineteenth year of his present majesty, and the fourth proclamation was made on the nineteenth of June, in the term of the Holy Trinity, in the nineteenth year of his present majesty, as by the record of the fine and proclamations aforesaid remaining in the court of our lord the now king of the bench here, to wit, at Westminster aforesaid, in the county of Middlesex aforesaid, more fully appears: And the said Nicholas B. and John Wildey aver that the said fine in form aforesaid levied was levied to the use of the said William Townley and his heirs for ever, and that after the levying thereof the said William Townley entered into the tenements above demanded, and by virtue thereof, and by force of the statute for transferring uses into possession, became and was seised thereof in his demesne as of fee, and being so seised thereof afterwards, to wit, on the sixteenth of November, A. D. 1781, at Sutton B. aforesaid, the said William Townley enfeoffed the said Nicholas B. and John W. of the tenements above demanded, to hold to the said Nicholas B. and John W. their heirs and assigns for ever; by virtue whereof the said N. B. and J. W. afterwards, to wit, on the same day and year last aforesaid, at Sutton B. aforesaid, entered into the said tenements above demanded, and became and were, and from thence hitherto have been seised thereof in their demesne as of fee: And the said Nicholas B. and John W. say, that

that after the levying the fine aforesaid, to wit, on the same day and year last aforesaid, the said Elizabeth died without issue, leaving the said Sarah the demandant her only sister and heir, upon whose death the warranty aforesaid contained in the said fine descended on the said Sarah the demandant as sister and collateral heir of the said Elizabeth; and this they are ready to verify; wherefore they pray judgment if the said Sarah ought to have and maintain her aforesaid action thereof against them, &c.

THO. WALKER.

And the said Sarah B. as to the said plea of the said Nicholas B. and John W. by them above pleaded in bar, says, that she by reason of any thing by the said Nicholas and John in that plea alleged ought not to be barred from having or maintaining her aforesaid action against them; because protesting that the said plea and the matters therein contained are not sufficient in law to bar the said Sarah from having and maintaining her aforesaid action against the said Nicholas and Thomas; yet for replication in this behalf the said Sarah saith, that the said forty acres of arable land, twenty acres of meadow, and twenty acres of pasture land, with the appurtenances, in Sutton B. above demanded, are not comprised in the said fine levied by the said William Townley and Elizabeth Townley to the use of the said William Townley and his heirs for ever, as by the said plea is above supposed; and this the said Sarah prays may be enquired of by the country, &c.; and the said N. and John do the like; therefore the sheriff is commanded that he cause to come here in three weeks of the Holy Trinity twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.

Replication,  
that premises  
demanded were  
not comprised in  
fine, and issue.

NORTHUMBERLAND, to wit. George Forster, by (a) Count in Richard Lowndes his attorney, demands against George Nelson one messuage, six stables, two granaries, two coach houses, one brewhouse, and one garden, with the appurtenances, in the parish of Morpeth, in the county of Northumberland, and also against Isabel Turton one other messuage and one other garden, with the appurtenances, in the parish of Morpeth, in the same county of Northumberland, which Thomas Pye, now deceased, gave to John Orde and John Richardson, their heirs, and assigns for ever, to the use and behoof of the said Thomas Pye, until the solemnization of a marriage then intended between John Pye, only son and heir apparent of the said Thomas Pye, and Ann Marr, spinster, and from and after the solemnization of the said intended marriage to the use and behoof of the said John Pye for and during the term of his natural life, and from and after the determination of that estate then to the use and behoof of the said John Orde and John Richardson and their heirs for and during the term of the natural life of the said John Pye, and from and after the death of the said John Pye to the use and behoof of the said John

(a) All the pleadings in this cause were settled or approved by Mr. G. Woods.

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Orde and John Richardson and their assigns for and during the term of one hundred years, if the said Ann Marr should so long live, and from and after the determination of the said term to the use and behoof of the first son of the body of the said John Pye on the body of the said Ann Marr to be begotten and the heirs male of the body of such first son lawfully to be begotten, and for default of such issue then to the use and behoof of the second son of the body of the said John Pye on the body of the said Ann Marr to be begotten and the heirs male of the body of such second son lawfully to be begotten, and for default of such issue to the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and all and every other son and sons of the body of the said John Pye on the body of the said Ann Marr to be begotten and the heirs male of the body of such third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and every other son and sons lawfully to be begotten, severally, successively, and respectively, one after another, according to their seniority of age and priority of birth, and in default of such issue to the use and behoof of the heirs female of the body of the said John Pye on the body of the said Ann Marr to be begotten, and in default of such issue to the use and behoof of the right heirs of the said Thomas Pye for ever, which said intended marriage was afterwards duly had and solemnized between the said John Pye and the said Ann Marr, and which reversion of and in the said tenements, with the appurtenances, to hold after the death of the said John Pye, and default of issue male and female of the body of the said John Pye on the body of the said Ann Marr to be begotten as aforesaid, the said Thomas Pye afterwards gave to John Orde and his heirs to the use of his grand-daughter Elizabeth Pye for and during the term of her natural life, and after the decease of the said Elizabeth Pye to the first son of the said Elizabeth Pye and the heirs male of such first son lawfully to be begotten, and for default of such issue then to the second, third, fourth, fifth, and all and every other the sons of the said Elizabeth Pye lawfully to be begotten, and for default of such issue then to the use and behoof of all and every the daughters of the body of the said E. P. as tenants in common, and not as joint tenants, and for default of such issue to Charles Stoddart for the term of his natural life, and failing him to the issue male of his body lawfully begotten, or to be begotten, and failing such issue to the said George Forster for his life, and after his death to the issue male of his body lawfully begotten or to be begotten, and which after the deaths of the said John Pye and Elizabeth Pye, and Charles Stoddart, and Charles Stoddart son and heir male of the said Charles Stoddart, ought to remain to the said George Forster by form of the gifts aforesaid, for that the said John Pye died without heirs male of the body of the said John Pye on the body of the said Ann his wife begotten, and without heirs female of the body of the said John Pye on the body of the said Ann his wife begotten, save and except the said Elizabeth Pye, and for that the said Elizabeth Pye died without issue of her body issuing, and for that the said Charles Stoddart the father left

left the said Charles Stoddart his son and heir male of his body lawfully begotten, and died without any other issue male of the body of the said Charles Stoddart the father lawfully issuing, and for that the said Charles Stoddart the son died without any issue male of his body lawfully issuing: And whereupon the said George Forster says that the said Thomas Pye was seised of the tenements aforesaid, with the appurtenances, in his demesne as of fee and right in the time of peace in the time of the lord George the Second, late king of Great Britain, by taking the esplees thereof to the value, &c. and being so seised thereof the said Thomas Pye, on the fourth day of March, in the year of Our Lord 1740, at Morpeth aforesaid, in the county aforesaid, by a certain indenture then and there made between the said Thomas Pye of the one part, and the said John Orde and John Richardson of the other part (which said indenture was sealed with the seal of the said Thomas Pye, the date whereof is the same day and year aforesaid), for the considerations therein mentioned bargained and sold (amongst other things) the tenements aforesaid, with the appurtenances, to the said John Orde and John Richardson, to hold to them the said John Orde and J. R. their executors, administrators, and assigns, from the day next before the day of the date of the said indenture for and during and unto the full end and term of one whole year from thence next ensuing and fully to be complete and ended; by virtue whereof, and by force of the statute for transferring uses into possession, the said J. O. and John R. became possessed of the tenements aforesaid, with the appurtenances, the reversion thereof after the determination of the said term of one year belonging to the said Thomas Pye and his heirs; and the said John Orde and John Richardson being so possessed thereof, and the reversion thereof belonging to the said Thomas Pye as aforesaid, he the said Thomas Pye afterwards, to wit, on the fifth day of March, in the said year of Our Lord 1740, at Morpeth aforesaid, in the county aforesaid, by a certain other indenture then and there made between the said Thomas Pye and the said John Pye, only son and heir apparent of the said Thomas Pye, of the first part, one Edward Marr and the said Ann Marr, spinster, daughter of him the said E. Marr, of the second part, and the said John Orde and John Richardson of the third part (which said last-mentioned indenture was sealed with the seal of the said Thomas Pye, the date whereof is the same day and year last aforesaid), the said Thomas Pye, for the considerations therein mentioned, released the said reversion of the said tenements, with the appurtenances, by the respective names and descriptions of all that messuage, burgage, house, or tenement, situate, standing, and being in Morpeth aforesaid, then in the tenure or possession of Francis Rumney, inkeeper, and also all that other messuage, burgage, house, or tenement, situate, standing, and being in Morpeth aforesaid, then in the tenure or possession of Mary Loraine, with their respective rights, members, and appurtenances, unto the said John Orde and John Richardson, their heirs, and assigns for ever, to the use and behoof of the said

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Thomas Pye until the solemnization of the said marriage then intended between the said John Pye and Ann Marr, and from and after the solemnization of the said intended marriage to the use and behoof of the said John Pye for and during the term of his natural life, and from and after the determination of that estate then to the use and behoof of the said John Orde and John Richardson and their heirs for and during the term of the natural life of the said John Pye, and from and after the death of the said John Pye to the use and behoof of the said John Orde and John Richardson and their assigns for and during the term of one hundred years, if the said Ann Marr should so long live, upon certain trusts therein after mentioned, from and after the determination of the said term to the use and behoof of the first son of the body of the said J. P. on the body of the said A. M. to be begotten and the heirs male of the body of such first son lawfully to be begotten, and for default of such issue then to the use and behoof of the second son of the body of the said J. P. on the body of the said A. M. to be begotten and the heirs male of the body of such second son lawfully to be begotten, and for default of such issue to the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and all and every other son and sons of the body of the said J. Pye on the body of the said Ann Marr to be begotten and the heirs male of the body of such third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and every other son and sons lawfully to be begotten, severally, successively, and respectively, one after another, according to their seniority of age and priority of birth, and in default of such issue to the use and behoof of the heirs female of the body of the said J. P. on the body of the said A. M. to be begotten, and in default of such issue to the use and behoof of the right heirs of the said T. Pye for ever; and it was thereby declared that the said term of one hundred years was limited to the said John Orde and John Richardson in trust for securing an annuity of twenty pounds to the said Ann Marr, in case she should survive the said John Pye, during her natural life, payable half yearly, and also for securing younger childrens portions as therein mentioned; by virtue of which said last-mentioned indenture the said John Orde and John Richardson became and were seised of the said tenements, with the appurtenances, in their demesne as or see upon the trusts and to the uses before mentioned: And the said George Forster in fact says that the said marriage was afterwards, to wit, on the thirteenth day of July, in the year of Our Lord 1741, at Morpeth aforesaid, in the county aforesaid, duly had and solemnized between the said John Pye and Ann Marr, and after the solemnization thereof, and by virtue of the said last-mentioned indenture, and by force of the statute for transferring uses into possession, the said John Pye became and was seised of the said tenements, with the appurtenances, in his demesne as freehold, to wit, for the term of his natural life, in the time of peace, in the time of our said lord George the Second, king of Great Britain, by taking the esplecs thereof to the value, &c. and being so seised the said John Pye afterwards, to wit, on the first day of June

June 1742, at Morpeth aforesaid, died without heirs male of the body of the said John Pye on the body of the said Ann his wife begotten, and without heirs female of the body of the said John Pye on the body of the said Ann his wife begotten, save and except the said Elizabeth Pye, the only child and heir of the said John Pye on the body of the said Ann his wife begotten, whereupon the said Elizabeth Pye, subject to the said term of one hundred years, by form of the gift aforesaid, and by force of the statute aforesaid, became and was seised of the tenements aforesaid, with the appurtenances, to wit, in her demesne as of fee tail, in the time of peace, in the time of the said late king George the Second, by taking the taking the esplees thereof to the value, &c. the reversion of the tenements aforesaid belonging to the said Thomas Pye and his heirs for ever: And the said George Forster further says, that the said Elizabeth Pye being so seised as aforesaid, and the said reversion belonging to the said Thomas Pye as aforesaid, he the said Thomas Pye afterwards, to wit, on the thirteenth day of January, in the year of Our Lord 1753, at Morpeth aforesaid, in the county aforesaid, made his last will and testament in writing, and thereby (amongst other things) did give and devise the said reversion of and in the said tenements, with the appurtenances, to hold after the death of the said John Pye, and default of issue male and female of the body of the said John Pye on the body of the said Ann Marr begotten as aforesaid to the said John Orde and his heirs, to the use of his grand-daughter the said Elizabeth Pye for and during the term of her natural life, and from and after the decease of the said Elizabeth Pye to the first son of the said Elizabeth Pye and the heirs male of such first son lawfully to be begotten, and for default of such issue then to the second, third, fourth, fifth, and all and every other the sons of the said Elizabeth Pye lawfully to be begotten, and for default of such issue then to the use and behoof of all and every the daughters of the body of the said Elizabeth Pye, as tenants in common, and not as joint tenants, and for default of such issue to Charles Stoddart for the term of his natural life, and failing him to the issue male of his body lawfully begotten or to be begotten, and failing such issue to the said George Forster for his life, and after his death to the issue male of his body lawfully begotten or to be begotten, and afterwards, to wit, on the seventh day of April, in the year last aforesaid, at Morpeth aforesaid, in the county aforesaid, died seised of the said reversion of the said tenements, with the appurtenances, without altering or revoking his said will, the said John Orde, Elizabeth Pye, Charles Stoddart, and George Forster him surviving, to wit, at Morpeth aforesaid, in the county aforesaid, and the said Charles Stoddart afterwards, to wit, on the first day of January, in the year of Our Lord 1770, and in the lifetime of the said Elizabeth Pye, to wit, at Morpeth aforesaid, died, leaving the said Charles Stoddart his son and heir male of his body lawfully begotten, and without any other issue male of the body of the said Charles Stoddart the father lawfully

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issuing; and the said Elizabeth being so seised as aforesaid afterwards, to wit, on the first day of May, in the year of Our Lord 1771, at Morpeth aforesaid, died without any issue of her body issuing, whereupon the said tenements, with the appurtenances, by reason thereof, and by force of the statute for transferring uses into possession, remained to the said Charles Stoddart the son as the heir male of the body of the said Charles Stoddart the father, and which said Charles Stoddart the son afterwards, to wit, on the twenty-second day of December, in the year of Our Lord 1780, at Morpeth aforesaid, died without any issue male of his body lawfully issuing, and from the said Charles Stoddart the son the right remaineth to the said George Forster the now demandant by form of the gifts aforesaid, &c. and which after the deaths of the said John Pye, and Elizabeth Pye, and Charles Stoddart the father, and Charles Stoddart son and heir male of the said Charles the father, ought to remain to the said George Forster by form of the gifts aforesaid, for that the said John Pye died without heirs male of the body of the said John Pye on the body of the said Ann Marr his wife begotten, and without heirs female of the body of the said John Pye on the body of the said Ann Marr his wife begotten, save and except the said Elizabeth Pye, and for that the said Elizabeth Pye died without issue of her body issuing, and for that the said Charles Stoddart the father left the said Charles Stoddart his son and heir male of his body lawfully begotten, and died without any other issue male of the body of the said Charles Stoddart the father lawfully issuing, and for that the said Charles Stoddart the son died without any issue male of his body lawfully issuing; and therefore he brings suit, &c.

And the said George Nelson and Isabel, by Thomas Meggison their attorney, come and defend their right, when, &c. and say, that the said Thomas Pye did not give the said reversion of and in the tenements above demanded, with the appurtenances, failing the issue male of the body of the said Charles Stoddart the father, to the use of the said George Forster for his life, and at his death to the issue male of his body lawfully begotten, as the said George Forster hath by his said writ and declaration above supposed; and of this the said George Nelson and Isabel put themselves upon the country, &c.: And the said George Nelson and Isabel, for further plea in this behalf, by leave of the court here to them for that purpose first granted, according to the form of the statute in such case made and provided, say that the said George Forster ought not to have or maintain his aforesaid action against them; because they say, that after the making of the said supposed devise by the said Thomas Pye in form aforesaid, and upon the death of the said Thomas Pye, the said Charles Stoddart the father in the said declaration mentioned, by virtue of the said devise, and by force of the statute for transferring uses into possession, became and was seised of and in the said reversion of the tenements aforesaid, with the appurtenances, in fee tail, that is to say, to him and

and the heirs male of his body lawfully begotten, and the said Charles Stoddart the father afterwards, to wit, on the first day of June, in the year of Our Lord 1754, at Morpeth aforesaid, died seised of his said estate tail of and in the said reversion of the tenements aforesaid, with the appurtenances, leaving Charles Stoddart his eldest son and heir male of his body, and thereupon the said reversion of and in the tenements aforesaid, with the appurtenances, descended and came to the said Charles Stoddart the son as son and heir male of the body of the said Charles Stoddart the father in the said writ and declaration mentioned lawfully begotten, whereupon the said Charles Stoddart the son became and was seised of and in the said reversion of the said tenements, with the appurtenances, in his demesne as of fee tail, and the said Elizabeth Pye in the said declaration mentioned afterwards, to wit, on the tenth day of November, in the year of Our Lord 1771, at Morpeth aforesaid, died without issue, *whereupon the said Charles Stoddart the son entered into the tenements aforesaid, with the appurtenances, and became and was seised thereof in his demesne as of fee tail*, that is to say, to him and the heirs male of his body lawfully begotten, and the said Charles Stoddart the son being so seised thereof afterwards, to wit, on the thirtieth day of October, in the year of Our Lord 1777, at Morpeth aforesaid, in the county aforesaid, by a certain indenture made between the said Charles Stoddart the son of the one part, and John Letteney, of Gray's Inn, in the county of Middlesex, gentleman, of the other part (one part of which indenture, sealed with the seal of the said Charles Stoddart the son, the said George Nelson and Isabel now bring here into court, the date whereof is the same day and year last above mentioned), for the considerations therein mentioned, bargained and sold unto the said John Letteney (amongst other things) the said tenements above demanded, with the appurtenances, to have and to hold the same unto the said John Letteney, his executors, administrators, and assigns, from the day of the date thereof for and during the term of one whole year from thence next ensuing and fully to be complete and ended; by virtue whereof, and of the statute made for transferring of uses into possession, the said John Letteney was possessed of the said tenements, with the appurtenances, and the said John Letteney being so possessed thereof, and the said Charles Stoddart the son being so seised of and in the reversion of the tenements aforesaid, with the appurtenances, he the said Charles Stoddart the son afterwards, to wit, on the thirty-first day of October, in the thirteenth year aforesaid, at Morpeth aforesaid, by a certain other indenture made between the said Charles Stoddart the son of the first part, the said John Letteney of the second part, and Michael Pearson, of Newcastle upon Tyne, esquire, of the third part (one part of which last-mentioned indenture the said George Nelson and Isabel now bring here into court, sealed with the seal of the said Charles Stoddart the son, the date whereof is the same day and year last above mentioned), for the considerations therein mentioned,

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granted, bargained, sold, aliened, released, and confirmed unto the said John Letteney, his heirs, and assigns (amongst other things), the tenements aforesaid above demanded, with the appurtenances, and the reversion and reversions, remainder and remainders thereof, to have and to hold the same unto the said John Letteney, his heirs, and assigns for ever, as by the said indenture of release, amongst other things, it more fully appears; by virtue whereof the said John L. became and was seised of and in the tenements aforesaid, with the appurtenances, in his demesne as of fee, and being so seised thereof one Michael Pearson, esquire, afterwards, to wit, in the term of the Holy Trinity, in the twelfth year of the reign of his present majesty, in the court of our said lord the present king of the bench at Westminster, in the county of Middlesex, before sir William de Grey, knight, and his brethren, then the justices of our said lord the king of the bench, impleaded the said John Letteney in a plea of land of the said tenements, with the appurtenances (among other things), by a writ of our said lord the king of *entry sur disseisin en le post*, there returnable in the same court, and duly returned, and the said John Letteney party to the same writ in the same court then duly appearing, and the said John Letteney being tenant of the said tenements, with the appurtenances, as above mentioned, the said Michael Pearson then declaring upon the said writ in his proper person demanded against the said John Letteney (amongst other things) the said tenements, with the appurtenances, in Morpeth, in the parish of Morpeth, as his right and inheritance, and into which the said John Letteney had not entry, unless after the disseisin which Hugh Hunt thereof unjustly and without judgment made on the said Michael within thirty years, &c. and whereupon he then said that he himself was seised of the tenements aforesaid, with the appurtenances, in his demesne as of fee and right, in time of peace, in the time of our said lord the present king, by taking the profits thereof to the value, &c. and into which, &c. and therefore he brought suit, &c. and the said John Letteney in his proper person came and defended the right, when, &c. and thereupon vouched to warranty the said Charles Stoddart the son to be summoned in the county aforesaid, and the said C. S. the son had there in eight days of Saint Martin, by the aid of the court, &c. the same day was given there to the parties aforesaid, &c. and upon that the said John L. appointed in his stead Rowland Lickbarrow and William Cuthbert his attornies jointly and severally against the said Michael to gain or lose of the plea aforesaid, &c. at which day there came as well the said Michael in his proper person as the said John Letteney by the said Rowland Lickbarrow his attorney, and the said Charles Stoddart the son being summoned, &c. likewise came by Robert Lewis his attorney, and freely warranted the said tenements, with the appurtenances, to the said John Letteney, &c. thereupon the said Michael demanded against Charles Stoddart the son, tenant by his own warranty, the tenements aforesaid, with the appurtenances, in form aforesaid, &c.

&c. and whereupon he said that he was seised of the tenements aforesaid, with the appurtenances, in his demesne as of fee and right, in the time of peace, in the time of our said lord the present king, by taking the profits thereof to the value, &c. and into which, &c. and therefore he brought suit, &c. and the said C. S. tenant by his own warranty, then defended his right, when, &c. and further vouched to warranty Thomas Francis Martin, who was then likewise present in court in his proper person, and freely warranted the tenements aforesaid, with the appurtenances, to him, &c. and thereupon the said Michael demanded against the said Thomas Francis, tenant by his own warranty, the tenements aforesaid, with the appurtenances, and thereupon he said that he himself was seised of the tenements aforesaid, with the appurtenances, in his demesne as of fee and right, in time of peace, in the time of our said lord the present king, by taking the profits thereof to the value, &c. and into which, &c. and therefore he brought suit, &c. and the said Thomas Francis, tenant by his own warranty, defended his right, when, &c. and said that the aforesaid Hugh Hunt did not disseise the aforesaid Michael of the aforesaid tenements, with the appurtenances, as the said Michael by his writ and declaration aforesaid above supposed; and of that he puts himself upon the country; and thereupon the said Michael prayed leave to imparl, and he had it, &c. and afterwards the said Michael came again into the same court in the same term in his proper person, and the said Thomas Francis, although solemnly demanded, did not come, but departed in contempt of the court, and made default; it was therefore then considered that the said Michael recover his seisin against the said John Letteney of the tenements aforesaid, with the appurtenances, and that the said John Letteney should have of the land of the said Charles Stoddart the son to the value, &c. and that the said Charles Stoddart the son should further have of the land of the said Thomas Francis to the value, &c. and that the said Thomas Francis should be in mercy, &c. and thereupon the said Michael prayed the writ of our said lord the present king to be directed to the then sheriff of the county of Northumberland to cause a full seisin of the tenements aforesaid, with the appurtenances, to be delivered to him, and it was then granted to him, returnable in the same court forthwith, &c. afterwards, to wit, on the twenty-eighth day of November, in that same term, came into the said court the said Michael in his proper person, and the sheriff, namely, Francis Blake, esquire, then returned that he by virtue of the said writ to him directed on the twenty-fourth day of the same month of November, did cause full seisin of the tenements aforesaid, with the appurtenances, to be delivered to the said Michael, as by the said writ he was commanded, as by the record and proceedings thereupon remaining in the court of our lord the present king of the bench here, to wit, at Westminster aforesaid, it more fully appears: And the said George Nelson and Isabel further say, that

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the said recovery was had and suffered as to the said tenements, with their appurtenances, by the said George Forster above demanded to the use of the said Charles Stoddart the son and his heirs, by virtue of which said recovery, and by force of the statute for transferring of uses into possession, the said Charles Stoddart the son became and was seised in his demesne as of fee of and in the said tenements above demanded, with the appurtenances, the estate of which Charles Stoddart the son, of and in the same tenements, with the appurtenances, the said George Nelson and Isabel now have, and on the day of suing out the original writ of the said George Forster had; and this they are ready to verify; wherefore they pray judgment whether the said George Forster ought to have or maintain his aforesaid action against them, &c. And the said George Nelson and Isabel, for further plea in this behalf by leave of the court here to them for this purpose first granted according to the form of the statute in such case made and provided, say, that the said George Forster ought not to have or maintain his aforesaid action thereof against them; because they say, that true it is that the said Thomas Pye was seised of the tenements aforesaid, with the appurtenances, in his demesne as of fee, as the said George Forster hath in his said declaration above alledged; and that being so seised thereof, the said Thomas Pye, on the said fourth day of March in the year of Our Lord 1740, bargained and sold the same to the said John Orde and John Richardson, to hold to them the said John Orde and John Richardson for the said term of one year, as the said George Forster hath above alledged; and that by virtue of the said demise, and by force of the statute for transferring uses into possession, the said John Orde and John Richardson became possessed of the tenements aforesaid, with the appurtenances, the reversion after the determination of the said term of one year belonging to the said Thomas Pye and his heirs, as the said George Forster hath in his said declaration above alledged; but the said George Nelson and Isabel farther say, that the said John Orde and John Richardson being so possessed thereof, and the reversion thereof belonging to the said Thomas Pye as aforesaid, he the said Thomas Pye afterwards, by a certain indenture bearing date the said fifth day of March in the said year 1740, released the said last-mentioned reversion of the said tenements, with the appurtenances, unto the said John Orde and John Richardson, their heirs and assigns, to the use and behoof of the said Thomas Pye until the solemnization of a marriage then intended between the said John Pye and Ann Marr, and from and after the solemnization of the said intended marriage, to the use and behoof of the said John Pye for and during the term of his natural life, and from and after the determination of that estate, then to the use and behoof of the said John Orde and John Richardson and their heirs, for and during the term of the natural life of the said John Pye, and from and after the death of the said John Pye, to the use and behoof of the said

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Ann Marr and her assigns, for and during the term of her natural life, and from and after the determination of that estate to the use and behoof of the first son on the body of the said Ann Marr to be begotten, and the heirs male of the body of such first son lawfully to be begotten, with divers remainders over, by virtue of which last-mentioned release the said John Orde and John Richardson became and were seised of the said tenements, with the appurtenances, in their demesne as of fee to the uses before in that behalf mentioned: And the said Ann Marr was afterwards, to wit, on the seventeenth day of July, in the year of Our Lord 1741, at Morpeth aforesaid, duly had and solemnized between the said John Pye and Ann Marr; and after the solemnization thereof, and by virtue of the said last mentioned release, and by force of the statute for transferring uses into possession, the said John Pye became and was seised of the said tenements, with the appurtenances, in his demesne as of freehold, to wit, for the term of his natural life, the remainder thereof belonging as aforesaid; and being so seised, the said John Pye afterwards, to wit, on the first day of June 1742, at Morpeth aforesaid, died, leaving the said Ann his wife him there surviving, after whose death the said Ann entered into the said tenements, with the appurtenances, as into her said remainder, and became and was thereof seised in her demesne as of freehold, to wit, for the term of her natural life, the remainder thereof belonging as aforesaid; and being so thereof seised, the said Ann Marr afterwards, to wit, on the fifth day of September in the year of Our Lord 1754, at Morpeth aforesaid, enfeoffed the said George Nelson and Isabel of the said tenements, with the appurtenances, to hold the same to the said George Nelson and Isabel, and their heirs, to the use of the said George Nelson and Isabel, and their heirs, for and during the term of the natural life of the said Ann Marr; by virtue of which feoffment the said George Nelson and Isabel, before and at the time of suing out the said original writ of the said George Forster, were, and yet are seised of the said tenements, with the appurtenances, in their demesne as of freehold for the term of the natural life of the said Ann Marr; without this, that the said indenture of release in the said declaration mentioned is the deed of the said Thomas Pye, in manner and form as the said George Forster hath above alledged; and this the said George Nelson and Isabel are ready to verify; wherefore they pray judgment whether the said George Forster ought to have or maintain his aforesaid action thereof against them, &c. And the said George Nelson and Isabel, for further plea in this behalf by like leave of the court here to them for this purpose first granted according to the form of the statute in such case made and provided, say, that the said George Forster ought not to have or maintain his aforesaid action against them; because they say that true it is that the said Elizabeth Pye was seised of the tenements aforesaid, with the appurtenances, in her demesne as of fee tail in manner and form as the said George Forster hath in his said declaration

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declaration above alledged; but the said George Nelson and Isabel further say, that the said Elizabeth being so seised thereof, afterwards, to wit, on the tenth day of February in the year of Our Lord 1771, at Morpeth aforesaid, intermarried with and took to husband one George Munro, by reason whereof the said George Munro and Elizabeth, in right of the said Elizabeth, became and were seised of the tenements aforesaid, with their appurtenances, in their demesne as of fee tail, to wit, to them and the heirs female of the body of the said Elizabeth; and being so thereof seised, the said George Munro and Elizabeth his wife, afterwards, to wit, on the tenth day of November in the year of Our Lord 1771, at Morpeth aforesaid, had issue female between them lawfully begotten, to wit, Munro; and the said George Munro and Elizabeth his wife, being so seised of the tenements aforesaid, with the appurtenances, the said Elizabeth afterwards, to wit, on the eleventh day of November in the said year of Our Lord 1771, at Morpeth aforesaid, died so seised of such her said estate, after whose death the said George held himself in the said tenements, with the appurtenances, and was thereof seised in his demesne as of freehold for the term of his life as tenant thereof by the law of England: And the said George Munro being so thereof seised, afterwards, to wit, on the first day of January in the year of Our Lord 1777, at Morpeth aforesaid, enfeoffed the said George Nelson and Isabel of the said tenements, with the appurtenances, to hold the same to the said George Nelson and Isabel and their heirs, to the use of the said George Nelson and Isabel and their heirs, for and during the term of the life of the said George Munro, by virtue of which feoffment the said George Nelson and Isabel before and at the time of the suing out the said original writ of the said George Forster were and yet are seised of the said tenements, with the appurtenances, in their demesne as of freehold for the term of the life of the said George Munro, with this, that the said George Munro still is in full life, to wit, at Morpeth aforesaid; and this the said George Nelson and Isabel are ready to verify; wherefore they pray judgment whether the said George Forster ought to have or maintain his aforesaid action against them, &c.

Replication to 1st Plea.	And the said George Forster as to the said plea of the said George Nelson and Isabel by them first above pleaded in bar, and whereof the said George Nelson and Isabel have put themselves upon the country, the said George Forster doth so likewise, &c.
Replication to 2d Plea.	And as to the said plea of the said George Nelson and Isabel by them secondly above pleaded in bar, the said George Forster says, that he by reason of any thing by the said George Nelson and Isabel in the said plea alledged, ought not to be barred from having and maintaining his aforesaid action thereof against them, because protesting that the said plea by the said George Nelson and Isabel secondly above pleaded in bar, and the matters therein contained, in the manner the same are above pleaded, are not sufficient

sufficient in law to bar the said George Forster from having and maintaining his aforesaid action thereof against them, to which said plea the said George Forster is not obliged by the laws of the land to answer; protesting also that the said Charles Stoddart the father, and Charles Stoddart the son, were not respectively seised of and in the said reversion of the tenements above demanded, with the appurtenances, as the said George Nelson and Isabel have above in their said plea by them secondly above pleaded in bar supposed; protesting also that the said Charles Stoddart the son did not by the said indenture in the said plea first above mentioned, bargain and sell unto the said John Letteney in the said plea mentioned, the tenements above demanded, with the appurtenances, as by the said plea is above alledged; protesting also that the said Charles Stoddart the son did not by the said indenture in the said plea lastly above mentioned, grant, bargain, sell, alien, release, and confirm unto the said John Letteney, his heirs and assigns, the tenements aforesaid above demanded, with the appurtenances, and the reversion and reversions, remainder and remainders thereof as the said George Nelson and Isabel have above in their said plea secondly above pleaded alledged; protesting also that the said John Letteney was not at the time of purchasing the said writ of entry *sur disseisin en le post*, or at any time afterwards tenant of the tenements above demanded, with the appurtenances, as by the said plea is also above alledged; protesting also that no such recovery of the tenements above demanded, with the appurtenances, was suffered or executed as by the said plea is above supposed; nevertheless for replication in this behalf, the said George Forster as before says, that the said Elizabeth Pye, after the death of the said Thomas Pye, and after the death of the said Charles Stoddart the father, by form of the gift in the said writ and declaration first above mentioned, and by force of the statute for transferring uses into possession, being seised of the tenements above demanded, with the appurtenances, in her demesne as of fee tail as aforesaid, the reversion thereof belonging and remaining as by the said will of the said Thomas Pye is limited as above mentioned, afterwards, to wit, in Michaelmas Term, in the fourth year of the reign of our sovereign lord the present king, in the court of our said lord the king of the bench at Westminster, a certain fine was in due manner levied in the said court of our said lord the now king of the bench before Charles Pratt, Edward Clive, Henry Bathurst, and Henry Gould, justices of our lord the King, and others then and there, to wit, at Westminster aforesaid present, between one Roger Marr, by the name of Roger Marr, gentleman, plaintiff, and the said Elizabeth Pye, by the name of Elizabeth Pye, spinster, deforciant, of three messuages and four acres of land, with the appurtenances, in the parish of Morpeth, whereof the said tenements above demanded, with the appurtenances, were and are part and parcel, whereupon a plea of covenant was summoned between them in the same court, that is to say, that the aforesaid Elizabeth had acknowledged

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ledged the aforesaid tenements, with the appurtenances, to be the right of him the said Roger, as those which the said Roger had of the gift of the aforesaid Elizabeth, and those she had remised, and quit claimed from her and her heirs, to the aforesaid Roger and his heirs for ever: And moreover the said Elizabeth had granted for her and her heirs, that they would warrant to the aforesaid Roger and his heirs the aforesaid tenements, with the appurtenances, against her the said Elizabeth and her heirs for ever, for which acknowledgment, remise, quit claim, warranty, fine, and agreement, the said Roger had given to the aforesaid Elizabeth sixty pounds sterling, which said fine in form aforesaid levied was then and there engrossed, and afterwards in the said court before the justices aforesaid, according to the form of the statute in that case made and provided, was publicly read and proclaimed in form following, that is to say, the first proclamation thereupon was made on the twenty-eighth day of November in Michaelmas Term aforesaid, in the fourth year of the reign aforesaid; the second proclamation thereupon was made on the thirteenth day of February in Hilary Term, in the fourth year of the reign aforesaid; the third proclamation thereupon was made on the first day of June in Easter Term in the fourth year of the reign aforesaid; the fourth proclamation thereupon was made on the fourth day of July in Trinity Term, in the fourth year of the reign aforesaid, as by the said fine with the proclamations thereupon in form aforesaid made remaining of record in the said court of our said lord the king of the bench at Westminster aforesaid may more fully and at large appear: And the said George Forster in fact further says, that in the said times of reading the said fine, and making the said proclamations thereupon in form aforesaid made all pleas in the said court of our said lord the king of the bench ceased, according to the form of the statute in that case made and provided, which said fine, with the proclamations aforesaid, so levied as aforesaid, was levied as to the said tenements above demanded, with the appurtenances, to and for the use and behoof of the said Elizabeth Pye, her heirs and assigns for ever, to wit, at Morpeth aforesaid, by virtue of which said fine, with the proclamations aforesaid, the said Elizabeth Pye became and was seised to her and to her heirs of such estate in the said tenements above demanded, with the appurtenances, as by force of the said fine with proclamations aforesaid, in form aforesaid levied, passed to the said Elizabeth Pye and her heirs: And the said Elizabeth Pye being so seised of the tenements above demanded, with the appurtenances, she the said Elizabeth Pye afterwards, to wit, on the eighth day of February in the year of Our Lord 1771, at Morpeth aforesaid, in the county aforesaid, by a certain indenture then and there made between the said Elizabeth Pye of the one part, and one William Orde and John Hepburn of the other part, which said indenture was sealed with the seal of the said Elizabeth Pye, the date whereof is the same day and year last aforesaid, for and in consideration of a certain sum of money therein

therein mentioned, bargained and sold (amongst other things) the tenements aforesaid above demanded, with the appurtenances, to the said William Orde and John Hepburn, to hold to them the said William Orde and John Hepburn, their executors, administrators, and assigns, from the day next before the day of the date of the said indenture, for and during and unto the full end and term of one whole year from thence next ensuing, and fully to be complete and ended, by virtue whereof, and by force of the statute for transferring uses into possession, the said William Orde and John Hepburn became possessed of the said tenements above-demanded, with the appurtenances, the reversion thereof after the determination of the said term of one year belonging to the said Elizabeth Pye and her heirs in form aforesaid; and the said William Orde and John Hepburn being so-possessed thereof, and the reversion thereof belonging to the said Elizabeth Pye in form aforesaid, she the said Elizabeth Pye afterwards, to wit, on the ninth day of February in the said year of Our Lord 1771, at Morpeth aforesaid, in the county aforesaid, by a certain other indenture then and there made between the said Elizabeth Pye of the first part, one George Munro of the second part, and the said William Orde and John Hepburn of the third part, which said last-mentioned indenture was sealed with the seal of the said Elizabeth Pye, the date whereof is the same day and year last aforesaid, the said Elizabeth Pye, for the considerations therein mentioned, released the said reversion last mentioned of the said tenements above demanded, with the appurtenances, by the respective names and descriptions of all that messuage, burgage, house or tenement, situate, standing, and being in Morpeth aforesaid, formerly in the tenure or possession of Francis Rumney, and then in the tenure, occupation, or possession of Thomas Harle, inn-keeper, as tenant thereof, and also all that other messuage, burgage, house, or tenement, situate, standing, and being in Morpeth aforesaid, formerly in the tenure or possession of Mary Loraine, widow, and then lately in the possession or occupation of the said John Hepburn, with their respective rights, members, and appurtenances, (subject with other things in the said indenture mentioned, to the said annuity or yearly rent charge of twenty pounds, payable to Ann the mother of the said Elizabeth Pye during her natural life) unto the said William Orde and John Hepburn and their heirs, to hold the same (subject as aforesaid) unto the said William Orde and John Hepburn and their heirs, to the use of the said Elizabeth Pye, her heirs and assigns, until the solemnization of a marriage then intended to be had and solemnized between the said Elizabeth Pye and George Munro, and from and after the solemnization of the said intended marriage, then to the use of the said George Munro and the said Elizabeth his intended wife, for and during their natural lives, and the life of the longer liver of them without impeachment of or for any manner of waste, remainder to the said William Orde and John Hepburn and their heirs for and during the lives of the said

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said George Munro and Elizabeth his intended wife, and for and during the life of the survivor of them, upon trust to preserve and support the contingent uses and estates therein-after limited, and from and after the death and decease of the said George Munro and the said Elizabeth his intended wife, and the survivor of them, then to the use and behoof of the first son on the body of the said Elizabeth Pye lawfully to be begotten, and the heirs male of the body of such first son lawfully to be begotten; and for default of such issue then to the use and behoof of the second son of the said Elizabeth Pye lawfully to be begotten, and the heirs male of the body of such second son lawfully to be begotten; and for default of such issue to the third, fourth, and fifth, and all and every other son and sons of the body of the said Elizabeth Pye to be begotten, and the heirs male of the bodies of such sons lawfully to be begotten, according to their seniority of age and priority of birth, severally successively one after another; and for default of such issue then to the use and behoof of the heirs female of the body of the said Elizabeth Pye lawfully to be begotten, and for default of such issue then to the use and behoof of such person and persons, his, her, and their heirs and assigns, as the said Elizabeth Pye, either sole or married, and notwithstanding her coverture by any deed or deeds, writing or writings, or by her last will and testament in writing, or any writing purporting her last will and testament, in the presence of three or more credible witnesses to be respectively executed should direct or appoint, and for want thereof to the use and behoof of the right heirs of the said Elizabeth Pye for ever: And the said George Forster in fact says, that the said marriage between the said George Munro and Elizabeth Pye was afterwards, to wit, on the same day and year last aforesaid, at Morpeth aforesaid, in the county aforesaid, duly had and solemnized, and after the solemnization thereof, the said George Munro and Elizabeth, according to the force and effect of the said indenture of release, and by force of the said statute for transferring uses into possession, became and were seised of the tenements above demanded, with the appurtenances of such estate for the term of their natural lives, and the life of the longer liver of them, as by the said fine with the proclamations aforesaid, in form aforesaid levied to the said Elizabeth Pye and her heirs passed the remainders and reversion thereof in form aforesaid belonging; and being so seised, she the said Elizabeth, afterwards, to wit, on the twenty-eighth day of August in the year of Our Lord 1771, at Morpeth aforesaid, in the county aforesaid, made her last will and testament in writing, executed by her in the presence of three credible witnesses, and thereby, amongst other things, did give and devise the said reversion of the said tenements above demanded, with the appurtenances, unto her said husband George Munro, his heirs and assigns for ever, and afterwards, to wit, on the second day of November in the said year of Our Lord 1771, at Morpeth aforesaid died, without altering or revoking her said will, and without any issue of her body issuing, the said George Munro her surviving, upon whose death the right in and

to the said tenements above demanded, with the appurtenances, by form of the gifts aforesaid in the said writ and declaration mentioned remained and came to the said Charles Stoddart the son, as heir male of the said Charles Stoddart the father, in form aforesaid, to wit, at Morpeth aforesaid: And the said George Forster further says, that after the death of the said Elizabeth, without issue as aforesaid, the said George Munro by virtue of the said fine, and of the said indentures of lease and release, and devise in form aforesaid made, held himself in the said tenements above demanded; with the appurtenances, for the space of five years and more after the death of the said Elizabeth without issue as aforesaid, and after the action and title of the said Charles Stoddart the son in and to the said tenements above demanded, with the appurtenances, remained and came to him in form aforesaid; and the said George Munro before and at, and after the several times of making the said indentures of lease and release in the said plea of the said George Nelson and Isabel by them secondly above pleaded mentioned by the said Charles Stoddart the son to the said John Letteney, and also at the several times of purchasing the said writ of entry *sur disseisin en le poſt*, and obtaining judgment thereupon and long afterwards, continually was seised of the said tenements above demanded, with the appurtenances, by pretence and colour of the said fine and of the said indentures of lease and release and devise in form aforesaid made, to wit, at Morpeth aforesaid; And the said George Forster further says, that the said Charles Stoddart the son, at the time of the death of the said Elizabeth without issue as aforesaid, was of the full age of twenty-one years and more, and of whole mind, at large, and not in any prison, and within the four seas, and that the said Charles Stoddart the son did not within five years next after the time that such action and right in and to the said tenements above demanded, with the appurtenances, accrued, remained, and came to him the said Charles Stoddart the son as aforesaid, or at any time afterwards, take his action or pursue his right and title in or to the said tenements above demanded, with the appurtenances, according to the law, but wholly neglected so to do, and afterwards, and within five years next before the suing forth the said original writ of the said George Forster, to wit, on the twenty-second day of December, in the year of Our Lord 1780, at Morpeth aforesaid, died without any issue male of his body lawfully issuing, and without having taken his said action or pursued his said right and title according to the law: And so the said George Forster says, that nothing of the said tenements above demanded, with the appurtenances, passed from the said Charles Stoddart the son to the said John Letteney, by force of the said indentures of lease and release in the said plea of the said George Nelson and Isabel by them secondly above pleaded in bar mentioned, whereby the said John Letteney at the time of purchasing the said writ of entry *sur disseisin en le poſt*, or at any time afterwards, was or could be made tenant of the freehold of the tenements above demanded,

Replication to  
3d Plea.

Replication to  
last Plea.

with the appurtenances, wherefore from the said Charles Stoddart the son the right remaineth to the said George Forster the now demandant by form of the gifts aforesaid, &c.; and this the said George Forster is ready to verify; wherefore he prays judgment and seisin of the tenements above demanded, with the appurtenances, to be adjudged to him, &c. And as to the said plea of the said George Nelson and Isabel by them thirdly above pleaded in bar the said George Forster says, that he by reason of any thing by the said George Nelson and Isabel in the said plea alledged ought not to be barred from having and maintaining his aforesaid action thereof against them; because he says, that the said indenture of release in the said declaration mentioned is the deed of the said Thomas Pye in manner and form as the said George Forster hath above alledged; and this he prays may be inquired of by the country, &c.: And as to the said plea of the said George Nelson and Isabel by them lastly above pleaded in bar the said George Forster says, that he by reason of any thing by the said George Nelson and Isabel in the said plea alledged, ought not to be barred from having and maintaining his aforesaid action thereof against them, because protesting that the said plea and the matters therein contained in the manner the same are above pleaded are not sufficient in law to bar the said George Forster from having and maintaining his aforesaid action thereof against them; protesting also that the said Elizabeth Pye was not after the time of the intermarriage of the said Elizabeth Pye with the said George Munro seised of the tenements above demanded, with the appurtenances, in her demesne as of fee tail as by the said plea is above supposed; protesting also that the said George Munro and Elizabeth his wife, in right of the said Elizabeth, were not by reason of their said intermarriage seised of the tenements above demanded, with the appurtenances in their demesne as of fee tail as by the said plea is above supposed; protesting also that the said George Munro and Elizabeth his wife had no issue between them lawfully begotten, as by the said plea is above supposed; protesting also that the said George Munro did not hold himself in the said tenements, and was thereof seised in his demesne as of freehold for the term of his life, as tenant thereof by the law of England, as by the said plea is above supposed; for replication in this behalf the said George Forster as before says, that the said Elizabeth Pye after death of the said Thomas Pye, and after the death of the said Charles Stoddart the father by form of the gift in the said writ and declaration first above-mentioned, and by force of the statute for transferring uses into possession, being seised of the tenements above demanded, with the appurtenances, in her demesne as of fee tail as aforesaid, the reversion thereof belonging and remaining by the said will of the said Thomas Pye, in manner as above-mentioned, afterwards and before the intermarriage of the said Elizabeth Pye with the said George Munro as in the said plea is mentioned, to wit, in Michaelmas term, in the fourth year of the reign of our sovereign lord the

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present king, in the court of our said lord the king of the bench at Westminster, a certain fine was in due manner levied in the said court of our said lord the now king of bench before Charles Pratt, Edward Clive, Henry Bathurst, and Henry Gould, justices of our lord the king of the bench aforesaid, and others then and there, to wit, at Westminster aforesaid, present, between one Roger Marr, by the name of Roger Marr, gentleman, plaintiff, and the said Elizabeth Pye, by the name of Elizabeth Pye, spinster, deforciant of three messuages and four acres of land, with the appurtenances, in the parish of Morpeth, whereof the said tenements above demanded, with the appurtenances, were and are part and parcel; whercupon a plea of covenant was summoned between them in the same court, that is to say, that the aforesaid Elizabeth had acknowledged the aforesaid tenements, with the appurtenances, to be the right of him the said Roger, as those which the said Roger had of the gift of the aforesaid Elizabeth, and those she had remised and quit claimed from her and her heirs to the aforesaid Roger and his heirs for ever; and moreover the said Elizabeth had granted for her and her heirs, that they would warrant to the aforesaid Roger and his heirs the aforesaid tenements, with the appurtenances, against her the said Elizabeth and her heirs for ever, for which said acknowledgments, remise, quit claim, warranty, fine, and agreement the said Roger had given to the aforesaid Elizabeth sixty pounds sterling, which said fine in form aforesaid levied was then and there engrossed, and afterwards, in the said court before the justices aforesaid, according to the form of the statute in that case made and provided, was publickly read and proclaimed in form following, that is to say, the first proclamation thereupon was made on the twenty eighth day of November, in Michaelmas term aforesaid, in the fourth year of the reign aforesaid; the second proclamation thereupon was made on the thirteenth day of February, in Hilary term, in the fourth year of the reign aforesaid; the third proclamation thereupon was made on the first day of June, in Easter term, in the fourth year of the reign aforesaid; the fourth proclamation thereupon was made on the fourth day of July, in Trinity term, in the fourth year of the reign aforesaid, as by the said fine, with the proclamations thereupon in form aforesaid made remaining of record in the said court of our said lord the king of the bench at Westminster aforesaid, may more fully and at large appear: And the said George Forster in fact further says, that in the said times of reading the said fine and making the said proclamations thereupon in form aforesaid made all pleas in the said court of our said lord the king of the bench ceased, according to the form of the statute in that case made and provided; which said fine with the proclamations aforesaid so levied as aforesaid was levied as to the said tenements above demanded, with the appurtenances, to the use and behoof of the said Elizabeth Pye, her heirs and assigns for ever, to wit, at Morpeth aforesaid; by virtue of which said fine, with the proclamations aforesaid, the said Elizabeth Pye became and was seised

Fine levied.

ed to her and to her heirs of such estate in the said tenements above demanded, with the appurtenances, as by force of the said fine levied in manner aforesaid, passed to the said Elizabeth Pye and her heirs; and the said Elizabeth Pye being so seised of the tenements above demanded, with the appurtenances, she the said Elizabeth Pye afterwards, to wit, on the eighth day of February, in the year of Our Lord 1771, at Morpeth aforesaid, in the county aforesaid, by a certain indenture then and there made between the said Elizabeth Pye of the one part, and one William Orde and John Hepburn of the other part, which said indenture was sealed with the seal of the said Elizabeth Pye, the date whereof is the same day and year last aforesaid for and in consideration of a certain sum of money therein mentioned, bargained and sold (amongst other things) the tenements aforesaid above demanded, with the appurtenances, to the said William Orde and John Hepburn, to hold to them the said William Orde and John Hepburn, their executors, administrators, and assigns, from the day next before the day of the date of the said indenture for and during, and unto the full end and term of one whole year from thence next ensuing and fully to be complete and ended; by virtue whereof, and by force of the statute for transferring uses into possession, the said William Orde and John Hepburn became possessed of the said tenements above demanded, with the appurtenances, the reversion thereof, after the determination of the said term of one year, belonging to the said Elizabeth Pye and her heirs in form aforesaid; and the said William Orde and John Hepburn being so possessed thereof, and the reversion thereof belonging to the said Elizabeth Pye in form aforesaid, she the said Elizabeth Pye afterwards, to wit, on the ninth day of February, in the said year of Our Lord 1771, at Morpeth aforesaid, in the county aforesaid, by a certain other indenture then and there made between the said Elizabeth Pye of the first part, one George Munro of the second part, and the said William Orde and John Hepburn of the third part, which said last-mentioned indenture was sealed with the seal of the said Elizabeth Pye, the date whereof is the same day and year last aforesaid, the said Elizabeth Pye for the considerations therein mentioned released the said reversion last-mentioned of the said tenements above demanded, with the appurtenances, by the respective names and description of all that messuage, burgage, house, or tenement, situate, standing, and being in Morpeth aforesaid, formerly in the tenure or possession of Francis Rumney, and then in the tenure, occupation, or possession of Thomas Harle, innkeeper, as tenant thereof; and also all that other messuage, burgage, house, or tenement, situate, standing, and being in Morpeth aforesaid, formerly in the tenure or possession of Mary Loraine, widow, and then lately in the possession or occupation of the said John Hepburn, with their respective rights, members, and appurtenances, (subject with other things in the said indenture mentioned to the said annuity or yearly rent charge of twenty pounds, payable to Ann the mother of the said Elizabeth Pye during

## REPLICATION.

during her natural life); unto the said William Orde and John Hepburn, and their heirs, to hold the same (subject as aforesaid) unto the said William Orde and John Hepburn, and their heirs, to the use of the said Elizabeth Pye, her heirs and assigns, until the solemnization of a marriage then intended to be had and solemnized between the said Elizabeth Pye and George Munro, and from and after the solemnization of the said intended marriage then to the use of the said George Munro and the said Elizabeth his intended wife, for and during their natural lives and the life of the longer liver of them, without impeachment of or for any manner of waste, remainder to the said William Orde and John Hepburn, and their heirs, for and during the lives of the said George Munro and Elizabeth his intended wife, and for and during the life of the survivor of them upon trust to preserve and support the contingent uses and estates thereinafter limited, and from and after the death and decease of the said George Munro and the said Elizabeth his intended wife, and the survivor of them, then to the use and behoof of the first son on the body of the said Elizabeth Pye lawfully to be begotten, and the heirs male of the body of such first son lawfully to be begotten, and for default of such issue then to the use and behoof of the second son of the said Elizabeth Pye, lawfully to be begotten, and the heirs male of the body of such second son lawfully to be begotten, and for default of such issue to the third, fourth, and fifth, and all and every other son and sons of the body of the said Elizabeth Pye to be begotten, and the heirs male of the bodies of such sons lawfully to be begotten, according to their seniority of age and priority of birth, severally successively one after another; and for default of such issue then to the use and behoof of the heirs female of the body of the said Elizabeth Pye lawfully to be begotten, and for default of such issue then to the use and behoof of such person and persons, his, her, and their heirs and assigns, as the said Elizabeth Pye, either sole or married, and notwithstanding her coverture by any deed or deeds, writing or writings, or by her last will and testament in writing, or any writing purporting her last will and testament, in the presence of three or more credible witnesses to be respectively executed, should direct or appoint, and for want thereof to the use and behoof of the right heirs of the said Elizabeth Pye for ever: And the said George Forster in fact says, that the said marriage between the said George Munro and Elizabeth Pye was afterwards, to wit, on the same day and year last aforesaid, at Morpeth aforesaid, in the county aforesaid, duly had and solemnized, and after the solemnization thereof the said George Munro and Elizabeth, according to the force and effect of the said indenture of release, and by force of the said statute for transferring uses into possession, became and were seised of the tenements above demanded, with the appurtenances of such estate, for the term of their natural lives, and the life of the longer liver of them, as by the said fine with the proclamations aforesaid, in form aforesaid levied to the said Elizabeth Pye and her heirs, passed the

remainders and reversion thereof in form aforesaid belongings; and being so seised she the said Elizabeth afterwards, to wit, on the twenty-eighth day of August, in the year of Our Lord 1771, at Morpeth aforesaid, in the county aforesaid, made her last will and testament in writing, executed by her in the presence of three credible witnesses, and thereby (amongst other things) did give and devise the said reversion of the tenements above demanded, with the appurtenances, unto her said husband George Munro, his heirs and assigns for ever, to wit, on the second day of November, in the said year of Our Lord 1771, at Morpeth aforesaid, died, without altering or revoking her said will, and without any issue of her body issuing, the said George Munro her surviving; upon whose death the right in and to the said tenements above demanded, with the appurtenances, by form of the gifts aforesaid in the said writ and declaration mentioned, remained and came to the said Charles Stoddart the son, as heir male of the said Charles Stoddart the father in form aforesaid, to wit, at Morpeth aforesaid: And the said George Forster further says, that after the death of the said Elizabeth Pye without issue as aforesaid, the said George Munro, by virtue of the said fine, and of the said indentures of lease and release and devise in form aforesaid made, held himself in the said tenements above demanded, with the appurtenances: And the said George Forster further says, that the said Charles Stoddart the son afterwards, and within five years next before the suing forth of the said original writ of the said George Forster, to wit, on the twenty-second day of December, in the said year of Our Lord 1780, at Morpeth aforesaid, died without any issue male of his body lawfully issuing, and from the said Charles Stoddart the son, the right now remaineth to the said George Forster, the now demandant, by form of the gifts aforesaid in the said writ and declaration mentioned, in manner and form as the said George Forster has above declared against the said George Nelson and Isabel; and this the said George Forster is ready to verify; wherefore he prays judgment and seisin of the tenements above demanded, with the appurtenances, to be adjudged to him, &c.

Demurrer and  
rejoinder.

And the said George Nelson and Isabel as to the said plea of the said George Forster above pleaded by way of reply to the said plea of the said George Nelson and Isabel, by them secondly above pleaded in bar, say, that the said plea of the said George Forster, and the matters therein contained, are not sufficient in law for him the said George Forster to have or maintain his aforesaid action thereof against the said George Nelson and Isabel; to which same plea in manner and form as the same is above pleaded the said George Nelson and Isabel are not under any necessity, nor in any wise bound by the law of the land to answer; and this they are ready to verify; wherefore for want of a sufficient replication in this behalf the said George Nelson and Isabel pray judgment, and that the said George Forster may be barred from having and maintaining his aforesaid action thereof against them, &c.

And

And for causes of demurrer in law in this behalf the said George Nelson and Isabel, according to the form of the statute in such case made and provided, shew to the court here these causes following, to wit, for that the same plea of the said George Forster above in reply pleaded does not either traverse or confess, and avoid the matter alledged in the said second plea of the said George Nelson and Isabel, nor does it directly answer the same, but by way of inference and argument only; and for that the matter aforesaid so pleaded by way of reply is only matter of evidence, and should not be so pleaded; and for that no material or conclusive issue can be taken upon the same plea of the said George Forster, or of any part therein contained; and for that the same plea is in other respects defective, insufficient, and wants form, &c.: And the said George Nelson and Isabel as to the said plea of the said George Forster by him above pleaded by way of reply to the said plea of the said George Nelson and Isabel by them thirdly above pleaded in bar, and whereof the said George Forster prays it may be enquired of by the country; the said George Nelson and Isabel do the like: And the said George Nelson and Isabel as to the said plea of the said George Forster by him above pleaded by way of reply to the said plea of the said George Nelson and Isabel by them lastly above pleaded in bar, say, that the same plea of the said George Forster, and the matters therein contained are not sufficient in law for him the said George Forster to have or maintain his aforesaid action thereof against the said George Nelson and Isabel, to which same plea in manner and form as the same is above pleaded the said George Nelson and Isabel are not under any necessity, nor in any wise bound by the law of the land to answer; and this they are ready to verify; wherefore for want of a sufficient replication in this behalf the said George Nelson and Isabel pray judgment, and that the said George Forster may be barred from having and maintaining his aforesaid action thereof against them, &c.

And the said George Forster says, that the said plea by him above in reply pleaded to the said plea of the said George Nelson and Isabel by them secondly above pleaded in bar, and the matters therein contained, are sufficient in law for him the said George Forster to have and maintain his aforesaid action thereof against them; which said replication, and the matters therein contained, he the said George Forster is ready to verify and prove, as the court here shall order: wherefore inasmuch as the said George Nelson and Isabel have not denied nor in any wise answered the matters contained in the said replication, but the verification thereof to admit do wholly refuse, he the said George Forster as before prays judgment and seisin of the tenements above demanded, with the appurtenances, to be adjudged to him, &c.: And the said George Forster further says, that the said plea by him above in reply pleaded to the said plea of the said George Nelson and Isabel by them lastly above pleaded in bar, and the matters therein

Joinder in demurrer.

therein contained, are sufficient in law for him the said George Forster to have and maintain his aforesaid action thereof against them; which said replication, and the matters therein contained, he the said George Forster is ready to verify and prove as the court here shall order; wherefore inasmuch as the said George Nelson and Isabel have not denied, nor in any wise answered the matters contained in the said replication, but the verification thereof to admit do wholly refuse, he the said George Forster as before prays judgment and seisin of the tenements above demanded, with the appurtenances, to be adjudged to him, &c.; but because the said justices here will advise amongst themselves of and upon the premises whereon the said parties have put themselves upon the judgment of the court before they give their judgment thereon, day is given unto the said parties here until in three weeks from the day of the Holy Trinity to hear judgment thereupon, for that the said justices here are not yet fully advised thereon, &c.: And as to the trying of the said issues above joined between the said parties to be tried by the country the sheriff is commanded to cause to come here in three weeks from the day of the Holy Trinity aforesaid, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. the same day is given to the parties here, &c.; at which day here come as well the said George Forster, by his attorney aforesaid, as the said George Nelson and Isabel, by their attorney aforesaid; and because the justices here will further advise amongst themselves of and upon the premises whereon the said parties have put themselves upon the judgment of the court before they give their judgment thereon, day is given unto the said parties here until the morrow of All Souls, to hear their judgment of and concerning the premises aforesaid, for that the said justices here are not yet fully advised thereon, &c.; and as to the trying the issues aforesaid above joined between the said parties to be tried by the country, the jury between the parties aforesaid of the plea aforesaid is respited thereupon between them until on the morrow of All Souls aforesaid, unless the justices of the lord the king assigned to take the assizes in the county aforesaid, by form of the statute in such case made and provided, shall before come on the day of August next following, at the of Newcastle-upon-Tyne, in the county aforesaid, for default of the jurors, because none came; therefore, &c.

*Cur. ad vult.*

Writ of formedon in descender]

GEORGE, &c. to, &c. command H. C. that justly and without delay he render to E. H. one undivided moiety of one messuage, &c. with the appurtenances, in , in your county, which R. H. the grandfather of the said E. H. gave to J. W. and his heirs, to the use of the said R. H. for his natural life, and after his decease to the use of A. H. his then intended wife, in case the said A. H. should happen to survive the said R. H. her then intended husband, for her natural life; and after the decease of the said R. H. and A. H. and the longest liver of them, to the use of the heirs

## DIRECTIONS HOW TO PROCEED IN.

heirs of the said R. H. that he should beget on the body of the said A. H. and for default of such issue to the use of the right heirs of the said R. H. and which after the death of the said R. H. the grandfather, and the said A. H. whom the said R. H. the grandfather took to wife, and of R. H. the son and heir of the said R. H. the grandfather, by him lawfully begotten on the body of the said A. H. to the said E. H. the son and heir of the said R. H. the father, by form of the gift aforesaid, by force of the statute for transferring uses into possession, ought to descend as he saith, and unless he shall so do, and the said E. H. shall give you security that his suit shall be prosecuted, then summons by good summoners the said H. C. that he be before our justices at Westminster, on , to shew why he will not do it. And have you there the summoners and this writ. Witness ourselves at Westminster, the, &c. E. WOODCOCK.

By J. B. one of our masters of the court of chancery, affidavit being made that the tenements within written do not exceed the yearly value of ten pounds.

Received for the fine thirteen shillings and fourpence.

J. C. deputy clerk, Hanaper.

By virtue of this writ to me directed I did on day of in the year within mentioned personally summon the within named H. C. to be before our justices within named, at the place and on the day within mentioned, to render to the within named E. H. the moiety of the messuages and premises within mentioned as I am within commanded.

Pledges, { John Doe  
          and  
          Richard Roe.

Summoners, { RICHARD HOPE  
                  and  
                  THOMAS BLAKE.

JOHN COOKE, esquire, sheriff.

Make an affidavit before a master in chancery of the value of the lands, which is done by swearing that they do not exceed the yearly value of pounds. Apply to the currior of the county where the lands lie, who will make a writ of formedon which must be compounded at the Hanaper Office, No 6, Coney-court, Gray's Inn. Mr. C. is the deputy clerk. You pay at the rate of 1s. 4d. per pound for the value sworn to.

When you have compounded the writ carry it back to the currior, who will get it sealed. Care must be taken to have fifteen days between the teite and the return of the writ; but there is no necessity to have four returns between, as generally imagined, by the currior, the late Act of Parliament 24. G. 2. for shortening returns rendering it unnecessary.

The statute 13. Ed. 1. gives the writ of formedon, and the subsequent statute 28. Edw. 1. f. 3 and 15. directs that in all summonses and attachments in a plea of land the summons and attachment shall contain at least fifteen days. The statute 31. Eliz. c. 2. f. 2. that after every summons upon the land in any real action a proclamation shall be made at the church door fourteen days before the return of the summons. You must first summons the defendant by real summoners, and on the summoning day following make proclamation at the church door where the lands lie.

You must then get the sheriff's return to the writ, and care must be taken that that he returns the proclamation; for without that you cannot proceed to a *disfringas* in case the defendant does not appear. The sheriff must also return good

*Instructions how to proceed previous to and after the issuing the formedon in disceder.*

## FORMEDON.—WRIT OF SEISIN.

good summoners, not John Doe and Richard Roe.

If the tenant cannot be found you may fix a summons upon the house or land. At the return of the writ the tenant may cast one effoin under the late Act of Parliament, and the demandant must take care to join in the effoin, or a *non prof.* may be signed.

This effoin was adjourned to the day of E. in the year, &c. The tenant in this case entered his appearance with the filacer at the return day of that effoin, and a declaration was delivered to his attorney, and the common rule to plead was given on the fourth day afterwards. The tenant's attorney pleaded a plea in abatement, that these lands were ancient demesne, but as he did not file an affidavit of the truth of the plea, demandant moved the court (at the expiration of a common rule for a peremptory rule to plead) and the same was drawn up with the secondary, and was served upon the tenant's attorney.

This rule was given on the Thursday and expired on the Monday following. After the service the tenant's attorney took out a summons before Sir J. Yates,

for time to plead. Demandant opposed the granting any further time, and insisted that a judge had no power at chambers to give the tenant time to plead after the expiration of a peremptory rule, which being an act of the court disabled the judge at chambers to allow further time; but that the tenant was under the necessity of applying to the court for time to plead, and Sir J. Yates concurred in that opinion and refused to make an order.

The tenant being thus circumstanced pleaded *non audit*, that otherwise demandant would have signed judgment for want of a plea (if tenant had not applied to the court for time), as the first plea of ancient demesne was a plea in abatement, and no affidavit of truth, &c.

The issue was made up by demandant's attorney as in common cases, and gave notice of trial for the next assizes at , but tenant did not venture a trial, withdrew his plea, gave judgment, and demandant took out a *writ of seisin*, and caused the same to be executed and possession to be delivered by the sheriff to the demandant.

Seisin of lands recovered by formedon in descender.

GEORGE, &c. to, &c. Whereas E. H. lately in our court before our justices at Westminster recovered his seisin against H. C. of one undivided moiety of one messuage, &c. with the appurtenances, in , in your county, by our writ of formedon in descender, therefore we command you that you cause the said E. H. to have full seisin of the moiety of the tenements aforesaid, with the appurtenances, without delay; and how you shall execute this our precept make appear to our justices at Westminster in fifteen days of St. Hilary; and have there this writ. Witness, &c.  
DICKENS.

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PRECEDENTS in  
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REPORTERS, &c.

167. Declaration by infant by *prochein ami* in formedon in remainder for lands allotted to the demandant under an act of parliament for dividing and inclosing open fields and commonable grounds. Plea, that demandant was seised of premises as coheiress with her sister, who married and levied a fine of premises to the use of her husband and his heirs for ever, and that the warranty descended upon demandant as collateral heir.

Formedon in defender upon a covenant to stand seised. Plea, *ten-tenure* as to part, and shews who is tenant of that part, and as to the residue, that demandant entered. Replication to the non-tenure, that the tenant was tenant, and issue to the residue, demandant demurs,

1. Id. Raym. 435

## WRIT OF RIGHT.

[The following draft and case (with the latter of which Mr. Marryatt's observations and opinion, and a statement of the facts to him are stated) was laid before Mr. Serjeant Hill for his perusal and advice.]

Writ of cozenage  
"or of right."

There was no  
equal garden but  
a small yard be-  
hind each of the  
houses.

**G**EORGE the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. to the sheriffs of London, greeting: Command James Lloyd, that justly and without delay he render unto Richard Hoddefden two messuages, and two gardens, with the appurtenances, in the several parishes of St. Mary Woolnoth, in the ward of Walbrook, and of St. Andrew Underhaft, in the ward of Lime-street, whereof Catherine Hibbins the cousin of the said Richard, whose heir he is, was seised in her demesne as of fee upon the day wherein she died, as he saith, "which he claims to be his right and inheritance, and whereof he complains that the said James unjustly deforces him;" and unless he shall do so, and if the said Richard shall give you security to prosecute his claim, then summon by good summoners the said James that he be before our justices at Westminster, on the morrow of the Purification, to shew wherefore he has not done it; and have you there the summoners and this writ. Witness ourself at Westminster, the fifteenth day of January, in the twenty-ninth year of our reign.

**QUERY.** Whether any mention should be made of the husband, who had a joint seisin with her in her right, until the time of her death?

**ANSWER.** This may be proper to be mentioned in the Count, at least I think it can do no hurt there; but the pedigree is I think not necessary to be stated in the writ, much less is this fact necessary.

G. HILL.

**NOTE.** The tenant or defendant should be really summoned upon the land (1. Mod. 248.) and the summons be proclaimed at the most usual doors of the churches in the respective parishes where the premises are situate (or at least one of them), on a Sunday, fourteen days before the return of the writ, 31. Eliz. c. 3.; the return must therefore be filled up so as to leave sufficient time for that purpose,

S. MARRYATT.

On the twenty-third of August 1758, Mrs. Catherine Culver, being seised in fee of some estates in possession, and of others in reversion, and being about to intermarry with Dr. James Hibbins, the following agreement was entered into, and signed by each of them upon unstamped paper :

Whereas a marriage is shortly to be consummated between James Hibbins of London, doctor in physick, and Catherine Culver of the parish of Rumford, in the county of Essex, widow, who is entitled to a considerable fortune, consisting of ready money, outstanding debts, stocks in the funds, leasehold and freehold houses, estates in London, in the counties of Middlesex, Essex, &c.; and also plate, linen, china, and jewels: It is therefore agreed between them as follows, viz. That the said Catherine Culver's fortune shall be settled or remain to their joint use, for her life or the life of the longest liver, and if she shall survive the said James Hibbins, her whole fortune, together with her plate, linen, china, and jewels to be settled to her own use, and if the said Catherine Culver shall happen to die first, then the aforesaid fortune to be at her disposal; and both parties do agree that proper settlement deeds to the effect and purport above-mentioned shall be prepared between them when the same can conveniently be got ready. In witness whereof the above parties to the said agreement have set their hands this twenty-third of August 1758.

On the same day Mrs. Culver executed a will, attested by three witnesses, in which she devised the principal part of her property to her intended husband James Hibbins in fee; and immediately after the before-mentioned agreement had been signed and will executed the marriage between Dr. Hibbins and Mrs. Culver was solemnized, by which solemnization her will was in point of law revoked. No

deeds were ever executed in pursuance of the above agreement, and in February 1759 Mrs. Hibbins died without issue, leaving Mary then the wife of Rich. Brazier and Mr. Rich. Hoddesden her co heirs at law, as will appear by the following sketch of the pedigree:

In January 1762 Mrs. Brazier died covert and without issue, and Mr. Hoddesden was heir at law, and is now sole heir to Mrs. Hibbins.

Richard Hayward  
of Falsfield.

Richard Hayward  
of Chiddingstone died in  
the lifetime of Mrs. Hibbins.

Richard Hayward  
of Woldingham died in  
the lifetime of Mrs. Hibbins.

William Hayward.

Catherine married first to Abraham  
Culver, and afterwards to Dr. James  
Hibbins, died *seised*, covert, and  
without issue in February 1759.

Mary married to Richard Brazier, survived  
Mrs. Hibbins, and in January 1762 died  
covert, having had two sons, both of whom  
died in her lifetime.

Alice married to Thomas  
Hoddesden, died covert in  
Mrs. Hibbins's lifetime,  
leaving

Richard Hoddesden  
her eldest son. Im-

## WRIT OF RIGHT—

Immediately on Mrs. Hibbins's death her husband the doctor proved her will (of which he was appointed sole executor), and entered upon such of the real estates she died actually seised of as had been bequeathed to him. In October 1768 her reversion of the other estates (which were also bequeathed to the doctor) fell in, and he thereupon entered upon those also, and continued in possession for many years, without any idea on the part of Mr. Hoddesden of the doctor's title being disputable.

About the year 1772 Mr. Hoddesden having heard that a person who had contracted with Dr. Hibbins for the purchase of one of his wife's estates had refused to complete the contract on account of the doctor's inability to make a proper title, began to enquire what title the doctor claimed. Several meetings between them took place in consequence, and the doctor setting up his claim under the above agreement and will, and Mr. Hoddesden's then attorney expressing his doubts as to the validity of such a title, it was at length, about January 1775, agreed that copies of the agreement and will should be laid before the then Solicitor Gen. (now Lord High Chancellor L.) for his opinion as to their operation upon the freehold estates. Mr. Hoddesden was afterwards informed that the Solicitor General's opinion was that the doctor was entitled to a life estate, but that at his decease the heir at law might claim, and in his judgment would succeed. The doctor was afterwards requested to let the matter be adjusted by an amicable bill but refused. No legal steps however were taken by Mr. Hoddesden during the doctor's lifetime on account of Lord Loughborough's opinion, that the doctor was entitled for life, although the consent of the doctor to take such opinion hardly amounted to an agreement to be bound by it.

In October 1777 Dr. James Hibbins died, having by will, dated March 1774, devised the premises in question to James Lloyd for life, with several limitations over; and the rents that have been paid since the doctor's death have been received for the use of his devisee, who is an infant, by Mr. George Lloyd his uncle, under a power of attorney from the guardians appointed for him in the will of his father who was dead.

After the death of the Doctor Mr. Hoddesden, conceiving that as heir to Mrs. Hibbins or Mrs. Brazier, he was become entitled to the whole of Mrs. Hibbins's real estate, filed a sort of ejectment bill in chancery, praying that he might be let into possession, and the title deeds delivered up, and the rents and profits accounted for and paid to him. A cross suit was instituted by the devisee, praying that the two wills of Mrs. Hibbins and the doctor might be established, and he be quieted in possession. Mr. Hoddesden's heirship being controverted on the one hand, and on the other the agreement and will being insisted to be forgeries, a number of witnesses were examined, and the causes did not come to a hearing till November 1787, when the Chancellor, though strongly of opinion that the will (if actually executed by Mrs. Hibbins) was revoked even in equity by her subsequent marriage, yet as there was considerable evidence to impeach its execution in point of fact and as the heirship of Mr. Hoddesden was disputed, reserved his judgment till the parties should have proceeded to a trial and verdict at law.

In consequence of this direction ejectments were brought in last Hilary term for such of the estates as Mrs. Hibbins had been seised in *reversion*, the limitations preceding her reversion having determined only in October 1768, which was within twenty years; and Mr. Hoddesden's right of entry not having been taken away by the death of Dr. Hibbins (even supposing that his entry was an *abatement*), inasmuch as although he died seised the estate did not *descend* at his death, but passed by the *devise* in his will, 1. Ro. Abr. 626. l. 30.

One of these ejectments was carried to trial (it having been agreed between the attorneys, that the others should abide the event), and a special verdict being found ascertaining the heirship of Mr. Hoddesden, and finding the agreement and will to be genuine, the cause came on to be argued in the court of king's bench last Michaelmas term, and all the judges were of opinion that the marriage was clearly a revocation of the will, and that the previous agreement could not give effect to it at law, and they therefore gave judgment for the title of the plaintiff. The case is reported in

## NOTES OF PROCEEDINGS IN.

2. Term Reports, 684.—Judgments have also been entered by *certiorari* of the pleas in the other ejectments, but Mr. Hodgesden has not effected any writ of possession.

It remains to be considered by what means the other freehold estates which Mrs. Habbins was in actual seisin of at the time of her death are to be recovered by Mr. Hodgesden, she having been dead almost thirty years. The counsel, who was concerned in the ejectment before concluded, at first suggested that a writ of right, but considering that a writ of damages would be all but a mereable in that course of proceeding, he was desirous of adopting some other remedy that was sufficient in law to obtain it. It afterwards occurred to him that in *Jefferies* might perhaps be maintained upon a writ of *formet* timeously or some expression of the *Massachusetts* in *June 267* that it is questionable whether the possession of Dr. Habbins, under the mortgage in question (which gave him a *charge* *equitable* *just* *for* *life*) was such an *actual* possession, as he stands him in a *bar* of an ejectment writ to reach upon. Supposing that expression of the *Massachusetts* to be correctly in this, the point here seems to require a trial upon the *ver* whether the entry of an equitable tenant for life amounts to an *actual* possession, conceiving, however, that an ejectment in this instance would not only be a hazardous experiment in respect of costs, but that even if it prevailed, only six years' rent would be recoverable in a consequential action for *mesne profits*, the *bar* *term* *even* *have* *elapsed* *three* *Dr.* *Habbins* *death*, (previous to which Mr. Hodgesden advised that he has no equitable pretence to them) the counsel has ultimately recommended a writ of *coverture* as he most eligible proceeding for Mr. Hodgesden to have recourse to, the motives for preferring it are not only that Mr. Hodgesden will be at liberty to bring a writ of right afterwards, in case of failure from any unforeseen cause in the writ of *coverture*, but because the *statute* of *Chancery*, &c. &c. has expressly disallowed a writ of *demand* *and* *recovery* in such a proceeding and Mr. Hodgesden's relationship seems to be within the *degrees* to which that writ is limited, *Hale on F. N. B.*

221, and 3. Black. Com (9th edition), 186.

If, in deed, the proceedings in a *præcipe quod rediat* would be suspended during the non age of Dr. Hibbins's devisee, who it is presumed can alone be made tenant to it, in ejectment would be preferred, if it can be prosecuted with any reasonable prospect of success but it is conceived, that in a real action in this case, the pool shall not demur, because the tenant, though an infant, is in either by purchase or intrusion, and not by *assessit*, 3. Bac. Abi. 152.

The reading, in most of the books  
of the Septuagint, (except  
Ezekiel's, where it forms a separate  
title) is to be found in the title *Thy*,  
in the preface to the psalms, and  
in the title of Iohn's Gospel, under  
the same title. The principal entries  
seem to be in Rutill, 28 and 29, and  
Hic, 258.

Altho' upon the premises are situate in *Id. 17*, it is apprehended the writ of *coramur*, or even of right, may be made returnable in the Common Pleas, and that neither of those writs is confined to the city court of Hustings, unless the city should demand continuance, *R. N. B. 7. D See Booth, 117 Com. Dig. tit. Droit D*

The person who is tenant of one of the houses at Dr. Hibbins' death, finding the title disputable, refused payment to my body, and the devise must not bring an ejectment. Some we is after he quitted it, and let another man into possession, upon receiving a sum of money as for good will, but without making any conveyance, and a third person is now in possession, under a similar purchase of the good will from the second. No rent was therefore been paid for the house (which is a public one) since the doctor's death, either to his devisee or any other person, but the present occupier says he is willing to account and pay it for the time he has held it, being about five years, to the person legally entitled. Suppose, however, that Dr. Hibbins's devisee having received no rent for this particular house, is therefore not a party under it to the *prescription* in respect of it, there is no person that can be made so; and the devise will find it difficult to plead *non tenore* of it in this

## WRIT OF RIGHT.—OPINION.

this instance, as a tenant pleading *non tenure of parcel only* must shew who else is the tenant; (1. Mod. 181.) and even if he should be able to do so, the writ would abate only *pro tanto*, 25 Edw. 3. c. 16.

Another of the houses happens at this time to be untenanted, as the late occupiers (who had a lease from the guardians of Dr. Hibbins's devisee) became bankrupts, and the assignees have surrendered up the term to the lessor.

QUERY 1st. Under these circumstances, Mr. Serjeant Hill is requested to advise whether an ejectment, writ of cozenage, writ of right, or any other proceeding, can be maintained by Mr. Hoddesden for the estates that Mrs. Hibbins died in actual seisin of; 2dly, and whether the tenant, after a judgment in cozenage, can enter any suggestion that will preclude the demandant from recovering damages for more than the last six years; 3dly, and whether Mr. Hoddesden's taking a moiety only by immediate descent from Mrs. Hibbins, and the other moiety vesting in Mrs. Brazier, and descending to him afterwards, will make any difference with respect to the remedy, either for the whole or for a moiety; 4thly, if a writ of cozenage or right be proper, he will please to settle the draft of that which he prefers. His opinion is also requested, 5thly, *whether* a real action for premises in London is necessarily confined to the city courts, or may be brought in the C. B. at the demandant's option; 6thly, *whether* Dr. Hibbins's devisee, or any other person should be made tenant to the *premise* for the public house, which no rent has been paid for since the doctor's death; 7thly, in what manner the summons is to be made respecting the house that is vacant; 8thly, whether if the infant tenant should neglect to appear at the return of the summons, the demandant can enter a *recipitur* of an *essoin*, issue a writ of *grand sape*, and proceed to judgment until a guardian is appointed for him; 9thly, *in what manner*, and in what stage of the proceeding (if at all) the demandant should proceed to get such appointment; 10thly, *whether* if the tenant should duly appear, the parcel can demur on account of his non-age; 11thly, and generally to advise upon such matters as may be material.

OPINION—“ I think it far from being clear that the *equitable* title to the estate in question, as well as to that which has been already recovered by the judgment on the special verdict, 2. Term Rep. 684. is not in those claiming under Dr. Hibbins; for, as observed by lord Kenyon, 2. Term Rep. 695. it is now to be doubted but that a court of equity will carry into execution to the prejudice of the heir of a *feme covert*, a disposition made by her by virtue of a bare agreement before marriage for enabling her to make such disposition: before the case of Wright v. lord Cadogan, it was holden that a *feme covert* could not devise her real estate but in two cases; first, where the same was before marriage conveyed to trustees to such uses as she notwithstanding coverture should appoint; or secondly, where after marriage the same was by her and her husband so conveyed by fine (or recovery); but in that case the legal estates was in trustees, and therefore the agreement previous to the marriage, and the will, operated as a declaration of the trusts of the legal estate, and therefore no need to make a new conveyance, the wife not having any legal estate to convey; and the only difference between that and the common case where the wife, previous to marriage, conveys her estate to trustees to such uses, &c. as she by deed or will, &c. shall appoint; and the case of Wright v. lord Cadogan is that in the former case the legal estate is conveyed, and the trusts declared by one and the same deed; whereas in the case of Wright v. lord Cadogan, the legal estate were trusts conveyed by one deed, and then declared by a different instrument which is in substance no difference at all; this reasoning seems to make a distinction between a woman's agreement previous to marriage respecting a legal and equitable estate, and that distinction was urged by counsel in the case of Rippin v. Harding, twenty-second of November 1769, before lord Camden; but it was over-ruled on this principle, that whatever is agreed for a valuable consideration to be done, is in equity considered as done; therefore I think the agreement in this

## REAL ACTIONS.

" this case was sufficient to enable  
 " Mrs. Hibbins to have disposed of  
 " her estate by will *after marriage*,  
 " and then I think it a doubtful distinction  
 " between a will made before  
 " and after coverture for two reasons,  
 " first, I doubt whether if the agreement  
 " had been carried into execution,  
 " (and the case is in equity to be  
 " considered in the same light as if it  
 " had been so) the court would not have  
 " declared the trust subject to the life  
 " estates to such uses, &c. as Mrs. Hibbins  
 " should by deed or will, &c. notwithstanding,  
 " or whether sole or covert appurtenant,  
 " in which case I think her will would  
 " have been good; 2dly, whether as  
 " all was done in one day they may not  
 " be considered as done at one time,  
 " according to the authorities cited by counsel, 1. Burr. 96. though  
 " it is true it could not be presumed  
 " that the marriage was before the will,  
 " and a like presumption was the  
 " ground that prevailed in that case,  
 " as appears in page 106. because the  
 " contrary of this case appears on the  
 " face of the will; but the present case  
 " proceeds on a supposition that the  
 " marriage was a revocation of the will,  
 " for it is stated that *that* was the  
 " opinion of all the judges, but I have  
 " my doubts for the reasons already  
 " mentioned and others; however, I shall  
 " answer the several queries on a  
 " supposition that the will is to be  
 " laid out of the case *in equity* as well  
 " as *at law*, for otherwise it would be  
 " to no purpose to try the legal title;  
 " but as Lord Kenyon, 2. Ter. Rep. 695,  
 " 696. determined the case without  
 " any opinion as to the trusts as he  
 " expressed it, 'without deciding or  
 " presuming to think what a court of  
 " equity would do in this case,' I  
 " thought it necessary, previous to  
 " answering the queries, respecting  
 " the proceedings at law to take  
 " notice of my doubts, whether Mr.  
 " Hodgesden may not possibly fail in  
 " equity, though he should succeed at  
 " law.  
 " And as to the first Query, as  
 " Dr. H. died in October 1787, I  
 " incline to think an ejectment the  
 " most proper way of proceeding,  
 " being so vastly preferable if it can  
 " be maintained (as I incline to think  
 " it may) to any real action; but  
 " then a strict search must be made to

" see whether any fine has been levied,  
 " for though non-claim be not incurred,  
 " yet to avoid a fine, an entry must be  
 " made previous to the ejectment, though  
 " it need not to the bringing of a real action.  
 " No doubt such search has been made as  
 " there was opportunity enough since the  
 " death of Dr. H. for a fine and non-claim  
 " to bar all real as well as other actions;  
 " but this search should be continued  
 " down to the present time if an ejectment  
 " be brought. And I think there is great  
 " ground for argument in support of the  
 " supposed opinion of Lord Mansfield in  
 " the case that the statute of limitations  
 " will not incur unless there be an  
 " *adverse* possession, which the possession  
 " of Dr. H. cannot be said to be, because  
 " he had an equitable estate for life, and  
 " at law. *Cessue que trust* in possession  
 " has been offered, considered as tenant  
 " at will to the trustee, or at least there  
 " is such a privity between them that the  
 " possession of one is the possession of the  
 " other, unless where the possession hath  
 " continued so long (which is not this case)  
 " in one of them as to raise a presumption  
 " that the other has conveyed to him;  
 " and though formerly *cessue que use* had  
 " no remedy at common law for recovering  
 " the possession, nor has now, except where  
 " the trust is clear, yet the common law  
 " has always took notice of trusts, and  
 " therefore *cessue que use* ought to serve  
 " upon juries, as observed by Litt. f. 464;  
 " so if an assumpsit was made in consideration  
 " of a release of an equitable claim or trust,  
 " the law will take notice off it, and the  
 " assumpsit will not be *nudum passum*, but  
 " sufficient to support an action on the  
 " assumpsit. This distinction, I think,  
 " takes of all the force off Judge B.'s  
 " argument in 2. Term Rep. 699. from  
 " Litt. 464, and this distinction is very  
 " fully explained, and as standing on clear  
 " principles in Lord Bacon's Law Tracts,  
 " 304. 305. and is the ground on which  
 " he then mentions the opinion of Litt. to  
 " be founded and right, and for the same  
 " reason I think that a court of law ought  
 " to take notice of an equitable estate in  
 " Dr. H. during his life, and that there was  
 " a privity between him and his late wife's

## REAL ACTIONS.

“ heir at law, and not such an adverse  
“ possession on which the statute of  
“ limitations could incur; and it is  
“ obvious what absurdity would fol-  
“ low from the contrary notion; for  
“ which reason I think an ejectment  
“ should be first tried, especially since  
“ if that should fail resort may be af-  
“ terwards had to a real action, and  
“ in that case I think a writ of cozen-  
“ age is to be preferred to a writ of  
“ right for the reason mentioned in  
“ the case.”

ANSWER to 2<sup>nd</sup> Query.—“ I  
“ think no suggestion can be entered  
“ that will preclude the demandant  
“ from recovering such damages as by  
“ law he shall appear to be entitled to,  
“ though they shall exceed six years.  
“ Where an action is brought for  
“ mesne profits, the statute of limi-  
“ tations is a bar to all but the last six  
“ years, for the action must be either  
“ an action on the case or trespass  
“ after a recovery in ejectment, both  
“ which are within the statute, and  
“ Buller, Justice, said the six years  
“ must be computed from the time  
“ of bringing the action, without re-  
“ gard to the ejectment, *Worral v.*  
“ *Stewart*, Mich. Term, 23. Geo.  
“ III. B. R. but this has no relation  
“ to a writ of cozenage. The gener-  
“ al rule is, that damages are to be  
“ recovered from the death of the im-  
“ mediate ancestor of the demandant,  
“ 2. Inst. 288. but I think, for the  
“ reasons under the 1<sup>st</sup> Query, only  
“ in this case from the death of Dr.  
“ Hibbins.”

To 3<sup>d</sup> Query.—“ I think Mr.  
“ Hoddesden’s taking a moiety only  
“ by immediate descent from Mrs.  
“ Hibbins, and the other moiety rest-  
“ ing in Mrs. Brazier and descend-  
“ ing, will make a difference, for  
“ Mrs. Brazier’s moiety seems to me  
“ not included in the marriage agree-  
“ ment, for that could not be con-  
“ sidered as any part of Mrs. Culver  
“ (after Hibbins’s) fortune at the time  
“ of the agreement\*, and therefore  
“ for this moiety the ejectment will be  
“ perhaps said to be barred, but  
“ there will be no hurt in bringing

“ the ejectment for the entirety, be-  
“ cause when an ejectment is so  
“ brought, if a title appears in the  
“ lessor only to a moiety or other  
“ part, he shall recover for that  
“ part, but I take it not to be so as  
“ to real actions, and if the claimant  
“ proceeds that way, I think he must  
“ have two separate actions, each for  
“ a moiety; but as to the pos-  
“ session of one joint tenant or tenant  
“ in common is the possession of the  
“ other, so as to prevent the statute  
“ of limitations against so long as the  
“ other is in possession, except where  
“ there has been actual ouster, or  
“ circumstances to presume an ouster  
“ (neither of which I incline to think  
“ is this case), *Salk.* 285. Pl. 19.  
“ 5. Burr. 2607. therefore that must  
“ be insisted on if an ejectment be  
“ brought as sufficient to the bar of  
“ the statute. With respect to Mrs.  
“ Brazier’s moiety, the marriage  
“ agreement might have been so  
“ worded as to have extended to fu-  
“ ture fortune, but it seems not to  
“ be so.”

To 4<sup>th</sup> Query.—“ The form of  
“ the writ of cozenage is so clearly set  
“ forth in the Regitt. 226. a. and in  
“ F. N. B. 221. K. that instead of  
“ preparing I shall only refer to them  
“ for it. The writ as observed Co.  
“ Litt. 17. a. is (as the name *brevé*  
“ imports) brief; but the Count is  
“ more narrative, spacious, and cer-  
“ tain, and the above books shew  
“ clearly that it is not necessary in the  
“ writ of cozenage to shew comen-  
“ t heir, so that it may seem unneces-  
“ sary to add that in Bro. *Sci. Fa.*  
“ Pl. 67. it was adjudged that the  
“ demandant shewed cozenage out of  
“ the writ, and not in it, and excep-  
“ tion was taken to this writ, *sed non*  
“ *allocatur*. There are many autho-  
“ rities that in a real action where  
“ the demandant makes title as heir  
“ he must shew comen t heir; but I  
“ think they are to be understood only  
“ of the Count, and most of them are  
“ so expressed. Several of them are  
“ mentioned in 2. Bl. Rep. 1100.;  
“ but there are a very great number

\* This part of the Serjeant’s Opinion seems to have been written under a mis-  
apprehension of the fact. The entire reversion having been in Mrs. Hibbins at the  
time of the agreement until her death, when the division of it into moieties first  
took place between Mrs. Brazier and Mr. Hoddesden.

## REAL ACTIONS.

"besides those that are there mentioned."

To 5th Query.—"I think no real action for lands or houses in London is maintainable any where but in London, for so in 4. Inst. 247. but the first of the authorities which I have referred to in this case (viz. F. N. B. 7. D.) is express to the purpose for which it is there mentioned, and therefore I think there will be little risk if the action be brought in C. B.

To 6th Query.—"I think Dr. H.'s devise should be made tenant to the writ of the public house, for if he pleads *non tenure* it will be optional in the demandant either to join issue on that plea or to sign judgment as for a disclaimer, and he will chuse the last, and that will answer the purpose as well, as I remember the doctrine of *non tenure*, for in such case I think he might have remedy against the person in possession by ejectment, supposing he could not by *habere facias seisinam* on the judgment of the writ of cozenage."

To 7th Query.—"As to the summons, where a house is empty or otherwise, very full directions in Booth, Lib. 1. c. 2. to which (as I have already written so much) and to the authorities there recited I shall refer, but in general it must be on the land and the requisites there, and in the 31. Eliz. c. 3. s. 7. be observed."

To 8th Query.—"If a tenant shall not appear, unless a guardian be previously appointed, all subsequent proceedings will be erroneous, for a recovery by default against an infant is erroneous, Bro. default, Pl. 50. and though it is there said to be contrary if he appears and loses by plea or voucher, yet that must be understood if he appears properly, that is, by guardian, for if he appears by attorney the judgment will be erroneous, F. N. B. 27. (H.) Stv. 218. Jenkins, 301. F. Cro. Jac. 641. not aided by any statute of jeofails where he is defendant, nor amendable except under circumstances, Stra. 455. though in some causes where he is plaintiff and re-

"covers it is aided by 21. Jac. 1. c. 13.

To 9th Query.—"I think after the original writ is sued out it will be proper to give notice thereof to the infant and his nearest relations to appoint some person to appear for him as guardian, and if none does to move the court that a guardian may be appointed *ad litem*, Sty. 369. 2. Will. 50. for which purpose I think it would be proper to make the original writ returnable at a distant return day, so as to give opportunity for making the motion, and for the court considering the point, for an original writ is not erroneous, though returnable at a remote return. The old method is to sue out a *dedimus* to appoint a guardian, Regist. 164. 2. and a writ to the justices of the court where the action was commenced against him, commanding them to admit the guardian appointed pursuant to the *dedimus*, Mowles Ent. 55. but now I apprehend the court would do it on motion in a real as well they constantly do in personal actions, 2. Barnes, 326. 334. Str. 1076."

To 10th and 11th Queries.—"As the infant's title is not descent, I think the parcel will not demur. Other matters will probably arise hereafter, but at present no others occur to me." G. HILL,

Lincoln's Inn, 12th Jan. 1789.

Two writs of cozenage, the one for premises in Middlesex, the other in London, were sued out (returnable in C. B.) against Lloyd, who appeared, and cast an essoin, but further proceedings at law were rendered unnecessary by the lord chancellor giving his judgment in equity in favour of Mr. Hoddesden. Upon the chancellor's opinion being given, Mr. Hoddesden's opponents relinquished their possession to him, and submitted to account for the profits from Dr. Hibbins's death.

For the public house an ejectment was afterwards brought against the occupier by Mr. Hoddesden on the several demurs of himself and Dr. Hibbins's devisees, and the possession was recovered under that ejectment.

# I N D E X.

## WRIT OF ASSIZE.

PRECEDENTS in  
BOOKS of PRACTICE,  
REPORTERS, &c.

Record in writ of *aile*. Plaintiff counts on the *seisin* of his grandfather of lands at Harrow. Tenant appears, and pleads *seisin* in fee in one Bryan Edley, who levied a fine to plaintiff's grandfather to the use of him and his wife for their respective lives, remainder to the heirs male of their bodies. Remainder to the right heirs of the grandfather. States that tenants for life entered and enjoyed during their lives; that on their deaths premises descended to Christopher, their son, who entered, and died seised, upon whose death the premises descended to Thomas his son, who entered, and died seised, and the premises descended to his brother Christopher by virtue of the entail, who entered, and died seised without issue male, whereupon the premises descended to one James, cousin and heir male of the grandfather, who entered by virtue of the entail, and demised to the defendants at will, and they further say, that they are not, nor were at the time of the issuing of the writ tenants of the freehold, and conclude with a verification. The demandant *protestando*, that the grandfather did not die seised in fee tail. Replies, that the defendants were tenants of the freehold, and concludes to the country. General demurrer in bar thereto. Joinder. Continuances, and judgment for the plaintiff upon the replication, and *that defendant respondeat assere*. Plea in chief by defendants as before, deriving the estate in fee tail to the said James, and alledge that James levied a fine to them for their lives, remainder to the husband in fee, and traverse the *seisin* in fee of the grandfather. Plaintiff takes issue on the traverse. Entry of the *jurata*. *Posse*, and verdict for the defendants, and final judgment, that plaintiff *nil capiat per breve*. *Placita* of Hilary term. *Jurata* respited till Trinity. *Nisi prius* for the sittings at Westminster,

Form of the oath administered to recognitors of assize,  
The record in assize in a writ of right,  
*Scire facias* in an assize of novel disseisin for an administratrix for damages adjudged in C. B. and judgment of reversal in B. R. reversed in parliament. Return. Demurrer to *scire facias*, and joinder, (*and complete record in this action*.) (See *Scire Facias*),

Writ of *seisin* on a writ of assize of novel disseisin,  
Judgment in an assize of novel disseisin,

Lill. Ent. 92. to 96  
Loft's Rep. 496  
*Ibid.*

Lill. Ent. 653  
*Ibid.* 598  
*Ibid.* 648  
REAL

# REAL ACTIONS, POSSESSORY.

## WRIT OF RIGHT.

(PROPERLY SO CALLED.)

Trinity Term, 27. Geo. III.

**S**URRY, to wit. James Dalley, by A. B. his attorney, de- Writ of Right.  
mands against William King one messuage, two barns, &c.  
&c. with the appurtenances, in the parish of, &c. in the county  
of Surry, as his right of inheritance by writ of the lord the king  
of right; and thereupon he saith, that M. B. late of, &c. long be-  
fore and at the time of the making of the devise hereafter men-  
tioned, was seised in his demesne as of fee and right of and in the  
premises hereinafter mentioned, in the time of peace, in the time  
of the lord king George the Second, late king of Great Britain,  
to wit, within sixty years now last past, by taking the esplees  
thereof to the value, &c.; and being so seised thereof the said  
M. B. on, &c. in the second year of the reign of the said lord king  
George the Second, made and published his last will and testa-  
ment in writing, duly executed and attested, for disposing of his  
real estate, and thereby gave and devised the tenements aforesaid,  
with the appurtenances above demanded, unto his wife J. B. for  
and during her natural life, and after the death of the said J. B.  
the testator gave and bequeathed by his said will the tenements  
aforesaid, with the appurtenances, to his son J. B. for and during  
his natural life, and from and after the decease of him the said son  
J. B. the said testator by his said will, gave and bequeathed the  
tenements aforesaid, with the appurtenances, to his two grand-  
sons M. B. and J. B. to them and their heirs for ever, equally to  
be divided between them and their heirs, share and share alike: And  
the said J. D. the demandant further saith, that the said M. B. the said  
testator having made such his will as aforesaid, to wit, on, &c. in the  
said second year of the reign of the said late king George the Second,  
died seised of the tenements aforesaid, with the appurtenances, to  
wit, &c. without altering or revoking his said will; upon whose  
death

## WRIT OF RIGHT.

the said J. B. became seised under and by virtue of the said will of the tenements aforesaid, with the appurtenances, in her demesne as of freehold and right for the term of her natural life by taking the esplees thereof to the value, &c. : And the said J. D. the demandant further saith, that the aforesaid J. B. afterwards, to wit, on, &c. in the said second year of, &c. died so seised of the said tenements, with the appurtenances, to wit, at, &c. ; and thereupon the said J. B. the son, under and by virtue of the said will, became seised of and in the tenements aforesaid, with the appurtenances, in his demesne as of freehold and right, for the term of his natural life, by taking the esplees thereof to the value, &c. : And the said J. D. the demandant further saith, that the said testator's said two grandsons M. B. and J. B. from and immediately after the death of the said testator, under and by virtue of the said will, became seised in common and of right of and in the remainder of the tenements aforesaid, with the appurtenances, expectant on the death of the said J. B. and the said J. B. the son ; and being so thereof seised of such his estate aforesaid, of and in the tenements aforesaid, with the appurtenances, the said M. B. the grandson afterwards, and after the death of the said testator, to wit, on, &c. in the twenty-first year of the reign of the said late lord king George the Second, died seised thereof, without heirs from his body issuing, after whose death his share, to wit, one undivided moiety of the said remainder of and in the tenements aforesaid, with the appurtenances, descended to the said J. B. the grandson, as only brother and heir of the said M. B. the grandson ; and by reason of the premises the said J. B. the grandson was seised as of fee and right of the whole of the said remainder of and in the tenements aforesaid, with the appurtenances : And the said J. D. the demandant further saith, that afterwards, and after the death of the said testator, and after the death of the said M. B. the grandson, and during the life of the said J. B. the said son of the said testator, to wit, on, &c. in the twenty-eighth year of, &c. the said J. B. the grandson being so seised as last aforesaid of and in the said remainder in the tenements aforesaid, with the appurtenances, died seised thereof, to wit, at, &c. without heir from his body issuing ; and after the death of the said J. B. the grandson the said remainder of and in the tenements aforesaid, with the appurtenances, descended upon the said J. D. the demandant as cousin and heir of the said J. B. the grandson, he the said J. D. being the son and heir of Ann formerly the wife of J. D. deceased, and the said A. being the daughter and heiress of Jane, who was the wife of J. B. and the said Jane being the daughter of the said M. B. the testator, which said M. B. died leaving issue only one son named J. B. which said J. B. the son died leaving the said M. B. and J. B. and no other issue, which said last-mentioned M.      and the said last-mentioned J. B. are both of them dead without issue : And by reason of the premises the said J. D. the demandant further saith, that afterwards, and after the death of the said J. B. the grandson, the said J. B. the son being so seised in his demesne as of freehold under the said will as aforesaid of and

in the tenements aforesaid, with the appurtenances, to wit, on, &c. in the thirtieth year of, &c. died, to wit, at, &c., and thereupon the estate of the said J. B. the son, as well as the estate of the said J. B. being determined as aforesaid, the tenements aforesaid, with the appurtenances, remained to him the said J. D. who now demands the same as his right and inheritance, and as cousin and heir at law as aforesaid of the said J. B. the grandson, and that such is his right he offers suit, &c.

And the said Will m King, by A B. his attorney, comes and defends the right of the said J. D. and his cousin, when, &c. and Plea to the above writ of right. all, &c. and whatever, &c. and chafly of the tenements aforesaid, with the appurtenances, as of fee and right, &c. and saith that true it is that M. B. was seised in his demesne as of fee and right of and in the premises in the Count mentioned, and that the said M. B. being so seised thereof, on, &c. in the second year of the reign of the said lord king George the Second, did make and publish his last will and testament in writing, duly executed and attested for disposing of his real estate, and thereby gave and devised the tenements aforesaid, with the appurtenances, unto his wife J. B. for and during her natural life, and that after the death of the said J. B. the said testator by his will gave and bequeathed the tenements aforesaid, with the appurtenances, to his son J. B. for and during his natural life, and soon and after the decease of his said son J. B. the said testator by his said will gave and bequeathed the tenements aforesaid, with the appurtenances, to his two grandsons M. B. and J. B. to them and to their heirs for ever, equally to be divided between their heirs, share and share alike, and that the said M. B. the said testator, having made such his will as aforesaid, died seised of the tenements aforesaid, with the appurtenances, without altering or revoking his said will, and that upon his death the said J. B. became seised under and by virtue of the said will of the tenements aforesaid, with the appurtenances, in her demesne as of freehold and right for the term of her natural life, by taking the oaths thereof, and that the said J. B. afterwards died seised of the tenements aforesaid, with the appurtenances, and that thereupon the said J. B. the son under and by virtue of the said will became seised of the tenements aforesaid, with the appurtenances, in his demesne as of freehold and right for the term of his natural life by taking the oaths thereof, and that the said testator's said two grandsons M. B. and J. B. from and immediately after the death of the said testator under and by virtue of the said will became seised in common as of fee and right of and in the remainder of the tenements aforesaid, with the appurtenances, expectant on the death of the said J. B. and the said J. B. the son, and that being so thereof seised of such estate as aforesaid of and in the tenements aforesaid, with the appurtenances, the said M. B. the grandson afterwards, and after the death of the said testator, died seised thereof without heirs from his body issuing, and that after his death his said share of the said remainder of

## WRIT OF RIGHT—

and in the said tenements, with the appurtenances, descended to the said J. B. the grandson as only brother and heir of the said M. B. the grandson; and that by reason of the premises the said J. B. the grandson was seised as of fee and right of the whole of the said remainder of and in the tenements aforesaid, with the appurtenances, and that afterwards, and after the death of the said testator, and after the death of the said M. B. the grandson, and during the life of the said J. B. the son of the said testator, the said J. B. the grandson, being so seised as last aforesaid of and in the said remainder in the tenements aforesaid, with the appurtenances, died seised thereof without heir from his body issuing in manner and form as the said J. D. the demandant hath in his Count aforesaid alleged: And the said W. K. further saith, that true it is that the said M. B. the testator died leaving issue only one son named J. B. and that the said J. B. the son died leaving the said M. B. and J. B. and no other issue, and that the said last-mentioned M. B. and the said last-mentioned J. B. are both of them dead without issue, in manner and form as the said J. D. the demandant hath in his Count aforesaid alleged; and the said W. K. further saith, that true it is that after the death of the said J. B. the grandson, the said J. B. the son being so seised in his demesne as of freehold under the said will as aforesaid of and in the tenements aforesaid, with the appurtenances, died, as the said J. D. the demandant hath in his Count alleged; but protesting that after the death of the said J. B. the grandson the said remainder of and in the tenements aforesaid, with the appurtenances, did not descend upon the said J. D. the demandant as cousin and heir of the said J. B. the grandson, in manner and form as by the said J. D. in his Count aforesaid alleged, protesting also that upon the death of J. B. the son the tenements aforesaid, with the appurtenances, did not remain to him the said J. D. the demandant as his right or inheritance as cousin or heir at law of the said J. B. the grandson, as the said J. D. the demandant hath in his Count aforesaid in that behalf alleged: for plea in this behalf the said W. K. tenant of the tenements aforesaid, with the appurtenances, saith that the said J. B. the grandson, being so seised as last aforesaid of and in the said remainder of and in the said tenements, with the appurtenances, after the death of the said M. B. the grandson, to wit, on, &c. in the twenty-eighth year of, &c. made and published his last will and testament in writing duly executed and attested for disposing of his real estate, and thereby gave and devised his said remainder in the tenements aforesaid, with the appurtenances, unto his mother R. B. and to her heirs and assigns for ever: And the said W. K. the tenant aforesaid, further saith, that the said J. B. the grandson, having made such his will as aforesaid, afterwards, to wit, on, &c. in the twenty-ninth year of, &c. died seised of his said remainder of and in the tenements aforesaid, with the appurtenances, and the said R. B. and J. B. the son then and there survived him: And the said W. K. the tenant further saith, that the said R. B. from and immediately

## PLEA TO.

after the death of the said J. B. the grandson, under and by virtue of the said will, became seised as of fee and right of and in the remainder of the tenements aforesaid, with the appurtenances, expectant on the death of the said J. B. the son; and being so seised of such her estates as aforesaid of and in the tenements aforesaid, with the appurtenances, the said J. B. the son being so seised in his demesne as of freehold of and in the tenements aforesaid, with the appurtenances, to wit, on, &c. in the thirtieth year of, &c. died, to wit, at, &c. and the said R. B. then and there survived him, and upon his death the said R. B. became seised under and by virtue of the said will of the said J. B. the grandson of the tenements aforesaid, with the appurtenances, in her demesne as of fee and right by taking the eplees thereof to the value, &c.: And the said W. K. the tenant further saith, that the said R. B. being so seised of and in the tenements aforesaid, with the appurtenances as aforesaid, afterwards, to wit, on, &c. A. D. 1769, at, &c. died so seised thereof without heir from her body issuing; and after the death of the said R. B. the tenements aforesaid, with the appurtenances, descended upon J. F. as brother and heir at law of the said R. B. and he the said J. F. then and there became seised in his demesne as of fee and right of and in the said tenements, with the appurtenances, by taking the eplees thereof to the value, &c.: And the said W. K. the tenant further saith, that the said J. F. being so seised thereof he the said J. F. afterwards, and whilst he was so seised, to wit, on, &c. A. D. 1770, at, &c. made and published his last will and testament in writing duly executed and attested for disposing of his real estate, and thereby gave and devised the tenements aforesaid, with the appurtenances, unto his wife E. F. for and during her natural life; and from and after the death of the said E. F. the said J. F. by his said will gave and bequeathed the tenements aforesaid, with the appurtenances, to J. K. to him and his heirs and assigns for ever; And the said W. K. the tenant further saith, that the said J. F. having made such his will as aforesaid, afterwards, to wit, on, &c. A. D. 1771, at, &c. died seised of the tenements aforesaid, with the appurtenances, without altering or revoking his said will, and the said E. F. and J. K. then and there survived him; and upon the death of the said J. F. she the said E. F. became seised under and by virtue of the said will of the tenements aforesaid, with the appurtenances, in her demesne as of freehold and right for the term of her natural life, by taking the eplees thereof to the value, &c.: And the said W. K. the tenant further saith, that the aforesaid E. F. afterwards, to wit, on, &c. A. D. 1773, at, &c. died so seised of the tenements aforesaid, with the appurtenances, and the said J. K. survived her; and thereupon the said J. K. under and by virtue of the last-mentioned will, became seised of and in the tenements aforesaid, with the appurtenances, in his demesne as of fee and right by taking the eplees thereof to the value, &c.: And the said W. K. the tenant further saith, that the said J. K. being so seised thereof, he the said J. K. afterwards, and whilst he was

so

# WRIT OF RIGHT.—REPLICATION.

so seised, to wit, on, &c. A. D. 1777, at, &c. made and published his last will and testament in writing, duly executed and attested for disposing of his real estate, and thereby gave and devised the tenements aforesaid, with the appurtenances, unto his son J. K. and his heirs: And the said W. K. the tenant further saith, that the said J. K. the testator having made such his last will as aforesaid, afterwards, to wit, on, &c. A. D. 1780, at, &c. died seised of the tenements aforesaid, with the appurtenances, without revoking or altering his said will, and the said J. K. the son then and there survived him, and upon his death became seised, to wit, under and by virtue of the said will of the tenements aforesaid, with the appurtenances, in his demesne as of fee and right by taking the oþples thereof to the value, &c.: And the said W. K. the tenant further saith, that the said J. K. the son being so seised thereof, he the said J. K. the son afterwards, and whilst he was so seised, to wit, on, &c. A. D. 1784, at, &c. made, &c. his last, &c. duly executed, &c. for disposing of his real estate, and thereby gave and devised the tenements aforesaid, with the appurtenances, unto the said W. K. the tenant to him and his heirs: And the said W. K. the tenant further saith, that the said J. K. the son having made such his will as aforesaid, afterwards, to wit, on, &c. A. D. 1786, at, &c. died so seised of the tenements aforesaid, with the appurtenances, without revoking or altering his said will; and the said W. K. the tenant upon his death became seised under and by virtue of the said will of the tenements aforesaid, with the appurtenances, in his demesne as of fee and right by taking the oþples thereof to the value, &c. and still is seised thereof in form aforesaid, to wit, at, &c.; and this, &c.; wherefore, &c. if, &c.

G. HILL.

replication to  
the last plea.

And the said J. B. the demandant saith, that the said W. K. unjustly defends the right of the said J. D. and his seisin, when, &c. and all, &c. and whatever, &c. and chiefly of the tenements aforesaid, with the appurtenances, as of fee and right, &c. because he the said J. D. the demandant as before saith, that upon the death of the said J. B. the son the tenements aforesaid, with the appurtenances, did remain to him the said J. D. the demandant as his right and inheritance as cousin and heir at law of the said J. B. the grandson, as the said J. D. the demandant hath in his Count aforesaid in that behalf above alledged, without this, that the said J. B. the grandson (being seised as in the plea of the said W. K. the tenant is above alledged of and in the said remainder of and in the tenements aforesaid, with the appurtenances, after the death of the said M. B. the grandson) gave and devised his said remainder in the tenements aforesaid, with the appurtenances, unto his mother R. B. and to her heirs and assigns for ever in manner and form as the said W. K. hath in his said plea above alledged; and this the said J. D. the demandant prays may be enquired of by the country; and the said W. K. the tenant doth the like: Therefore the sheriff is commanded that he cause to come here in three weeks of the

Holy Trinity, twelve, &c. by whom, &c. and who neither, &c.  
to recognize, &c. because as well, &c. G. BOND.

## DIRECTIONS ON PROSECUTION OF A WRIT OF RIGHT.

This writ is what is called a General Writ of Right, and should be delivered to the steward of the manor court in court upon which (after pledges to prosecute given) the steward should make an entry of the demand by the writ, and then deliver back the writ to the demandant.

The bailiff or steward is then to issue process to summons the tenant.

If he does not, the demandant may remove the plea into the county court by a precept called a *tolt*.

An entry of that must be made also by the steward. That *tolt* is to be returned.

Upon the return of the plea into the county court the demandant may remove it from thence into the common pleas by a writ called a *pone*.

This being very troublesome the most eligible method is to sue out a writ of right returnable in the court of king's bench, which must be by the writ called *quia dominus remisit curiam*.

And after the *teste* those words *quia, &c.* must be inserted the writ should be carefully settled.

This writ is close, and directed to the sheriff who is to summons the tenant or defendant, and return the writ accordingly, after which the proceedings are as in other real actions.

The tenant or defendant should be really summoned, and not the common return of fictitious summoners, for was judgment to go by default it might be set aside. Vide Searle and Long, Mod.

JOHN MORGAN.

GEORGE the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. to the sheriff of A. greeting: Command W. R. W. S. and A. his wife, and E. R. that justly and without delay they render to W. W. four cottages, four gardens, with the appurtenances, in , within the manor of , in your county, which he claims to be his right and inheritance, and whereof he complaineth that the said W. R. &c. do unjustly deforce him; and unless they shall for do, and the said W. W. shall give you security, that his suit shall be prosecuted, then summon by good summoners the said W. R. &c. that they be before our justices at Westminster to shew wherefore they will not do it; and have you there then the summoners and this writ. Witness ourself at Westminster, the day of in the year of our reign; because Richard, bishop of London, chief lord of that fee, hath thereupon remitted unto us his court.

Pledges to prosecute, { John Doe  
and  
Richard Roe.

The within named W. R. &c. are summoned by T. V. and W. B. and at the most usual door of the parish church of , within mentioned, on Sunday the day of , in the year within mentioned, after divine service and sermon ended, I did cause proclamation to be made according to the form of the statute in such case made and provided.

The answer of F. H. sheriff.

On

## WRIT OF RIGHT.

The adjournment of the tenants' essoign.

On the morrow of the Ascension of the Lord in Easter term, in the year of the reign of king George the Third, the tenants essoign at the instance of the demandant is adjourned until in fifteen days of the Holy Trinity.

R. W. clerk of the essoigns.

Declaration on the above writ.

\_\_\_\_\_ to wit. W. W. by A. B. his attorney, demands against W. R. &c. four cottages [as in the writ], with the appurtenances, in \_\_\_\_\_, in the manor of \_\_\_\_\_, in the county of \_\_\_\_\_, as his right and inheritance by writ of right of our lord the king; because Richard, bishop of London, the chief lord of that fee, hath thereupon remitted unto our lord the king his court, and thereupon he the said W. W. saith, that \_\_\_\_\_ was seised of the tenements aforesaid, with the appurtenances, in his demesne as of fee and right, in the time of peace, in the time of our lord late king of Great Britain, &c. within sixty years now last past, by taking the esplees thereof to the value of \_\_\_\_\_, from which said \_\_\_\_\_ the right, &c. descended to *W. H. as son and heir of the said \_\_\_\_\_, and from the said W. H. because he died without heir of his body issuing, the right, &c. descended to S. W. now deceased* cousin and heir of the said W. H. that is to say, sister of the said \_\_\_\_\_, the father of the said W. H. and from which said S. W. the right &c. descended to the said W. W. who demands the tenements aforesaid, with the appurtenances, as son and heir of the said S. W. deceased; and that such is the right of him the said W. W. he offers to prove, &c.

Plea.  
s. Black. Com.  
277.

And the said W. R. &c. by C. D. his attorney, come and *defend the right of the said W. W. and his heirs* of and in the tenements aforesaid, and say that the said S. H. the grandfather was not seised of the tenements aforesaid, with the appurtenances, in his demesne as of fee, in manner and form as the said W. W. hath above alleged; and of this they put themselves upon the country, &c.: And for further plea in this behalf the said W. R. &c. by leave of, &c. say, that the tenements aforesaid, with the appurtenances, &c. &c.

Extracts from the statutes and law books concerning an assize of novel disseisin at common law, grounded on the King's writ of right close.

ASSIZES are used for a jury. Where assizes of novel disseisin, &c. are tried the pannel of assizes shall be arraigned and a copy delivered by a proper officer to the plaintiff of the defendant's demanding the same six days before the sessions, on pain of forty pounds, 6. Hen. 6. c. 2.

Assize is taken for a writ of recovery of things whereof any one, or his ancestors, have been disseised, or signifies an ordinance of Stat. Reg. Orig. 279.

In an assize, if defendant fails to make good his exceptions which he pleads he shall be adjudged a disseisor without taking the assize, and shall pay plaintiff double damages, and be imprisoned a year, 13. Ed. 1. c. 25.

In an assize the tenant must plead in bar, and plaintiff make title; but if the tenant neither answers nor traverses the title, the assize shall be awarded at large, Cro. Eliz. 559. Cadogan v. Powell; and if any other title is found for plaintiff he shall recover, Bro. Assize, 281.

If tenant pleads in abatement he must also plead over in bar, and have an imparlance without good cause, and where there are several defendants, and any of them do not appear the first day, the assize shall be taken against them all by default, Pasch. 5. W. 3.

An assize is first to be arrayed, and plaintiff's counsel or agent pray defendant may be called if they appear, then counsel or agent may demand over of the writ, which being granted they may pray leave to *imparl* to a *short* day, to which the jury may be adjourned; on which day the defendant being again called, and appearing, and pleading to the assize, the parties thereon join issue, then plaintiff's counsel or agent give their evidence; after trial the court gives judgment, and if plaintiff recovers he is to have his writ of seisin, 1. Lill. 105. 106.

The plaintiff must first prove his title, then his seisin and disseisin.

And the defendants shall not essoign, or cast a protection, or pray aid of any but the king, or vouch any stranger or party to the writ unless they enter into warranty, 8. Rep. 50.

In assize the jurors are called recognitors of the assize, and are to view the premises in question. By writ of assize the proper officer is commanded to summon twelve free and lawful men of the neighbourhood by good summoners to view the premises in question, and after to appear at the sessions and give recognition or verdict.

The judgment being to recover *per visum recognitorum*, it is sufficient if the plaint be but so certain as the recognitors may put the demandant or plaintiff into possession, Dyer, 84.

For proceedings in Assize, Plow. 411. 412.

# I N D E X.

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## WRITS OF RIGHT, (a) PROPERLY SO CALLED, (PROCEEDINGS IN.)

PRECEDENTS *in*  
BOOKS of PRACTICE,  
REPORTERS, &c.

**Declaration.** A *Writ of right* patent. Plea, the general  
issue; whercupon the *mise* is joined upon the mere right,  
**Writ of right** patent. Whole proceedings therein,  
**Count** in a writ of right. Plea, that the remainder did not  
descend to demandant; - -

2. Wils. Rep. 419  
*Ibid.* 541 to 564

1. H. Bl. Rep. 1

(a) For INDEX to REAL ACTIONS *see* GENERAL INDEX at the end of this Volume—  
ACTIONS REAL—where these proceedings are arranged. Postponed now that the progress  
of this Volume might not be impeded, owing to manuscript matter communicated subsequent  
to the copy delivered, as in some of the preceding Volumes.

PRACTICAL

# PRACTICAL PROCEEDINGS

IN THE

CIVIL AND CRIMINAL DIVISION,

AND

*PARTES PLACITANDI.*

## NOTICES OF ACTION.

*TO A. B. and C. D. Officers of his Majesty's Customs.*

YOU having on or about the                      day of                      last Notice to cut  
unlawfully seized and taken possession of a certain brig or vessel tom-house off  
called the Janet, together with her tackle, apparel, furniture, cers (for seizing  
and stores, of and belonging to John Brownlow of, &c. and and convertin  
being of a large value, to wit, of the value of                      pounds given by th  
of lawful, &c. and from thence hitherto unlawfully kept and de- attorney.  
tained the said ship or vessel, and her tackle, apparel, furniture,  
and stores aforesaid, and converted and disposed thereof to your  
own use; I do therefore as the attorney of and for the said John  
Brownlow in this behalf (according to the form of the statute in Observe the sta  
such case made and provided) hereby give you notice, that I tute.  
shall at or soon *after the expiration of one calendar month* from the  
time of your being served with this notice, commence and prosecute  
an action against you in his majesty's court of                      for your  
said misconduct. Dated this                      day of                      1791.

Yours, ANTHONY HEMMING,  
Attorney for the said J. B.

The name and place of abode of the plaintiff's attorney must  
be indorsed on this notice.

*Drawn by MR. TIDD.*

MR. TURNER,

Take notice, that I do hereby forbid you at any time or times Notice to hind  
hereafter to enter or come into, or come upon any of the fields, a person too  
closes, woods, lands, or premises in my possession, situate in the going upon lan  
several parishes of Finchley, Hornsey, and Hampstead, in the and killing  
county of Middlesex, or into or upon any part of the manor be- game.  
longing

## PRACTICAL FORMS.—NOTICES.

longing to the bishop of London lying within the said parishes, or unto or among any part thereof, either to hunt, course, search for, or kill there game, or on any other account or pretence whatsoever, so long as the same or any part thereof shall remain in my possession; and I also hereby give you notice, that if at any time after your receipt thereof you do enter into, or come upon any of the said fields, closes, woods, lands, premises, or manor, or any part thereof, either to hunt, course, search for, or kill game there, I shall consider you as a wilful trespasser, and shall prosecute you at law for so doing. Given under my hand this twenty-eighth day of January 1768.

MR. JAMES SHELLWOOD,

Notice for a tenant to quit.

Take notice, that you are to quit and leave the two rooms which you hold of us, being part of our dwelling-house in White Cross Alley, Moorfields, on the sixth day of July next; and in case you hold over the same after that day, we do hereby give you notice, that you are to pay to us after the rate of twelve pounds *per annum* for so long time as you shall continue to hold over and in possession of the same, in augmentation of the rent you now pay for the said rooms. Dated the third day of April 1764.

Witness, S. R.

JOHN CRANFIELD,  
ANN CRANFIELD, his wife.

Between { A. B. plaintiff,  
                    and  
                    E. D. defendant.

SIR,

Notice of justifying bail, and affidavit of service.

Please to take notice, that special bail is filed with the filacer of for the defendant in this cause, to wit, E. F. of, &c. yeoman, and G. H. of, &c. yeoman, and that the said bail will justify in court by affidavit on Monday next. Yours, &c.

T. R. agent for the defendant.

To Mr. L. M. agent for the plaintiff—

*May, 1767.*

Affidavit.

N. O. of, &c. maketh oath, that he, this deponent, did this day deliver to Mr. L. M. agent for the plaintiff in this cause, a notice purporting that special bail was filed with the filacer of Y. for the defendant in this cause, to wit, E. F. of, &c. and G. H. of, &c.; and that the said bail would justify themselves in court by affidavit on Monday next. \* N. O.

Sworn, &c.

MR. W.

Notice of moving court for judgment.

Take notice, that the court of common pleas at Westminster will be moved on next, or as soon after as counsel can be

# PRACTICAL FORMS.—NOTICES.

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be heard, that the like judgment may be had for the defendant in this cause as in the case of a nonsuit, pursuant to the late act of parliament. Dated the

day of 1747.  
G. G. agent for the defendant.

Between { A. B. plaintiff,  
and  
C. D. defendant.

TAKE notice, that special bail is filed for the defendant in this cause with the filacer of Yorkshire, and the names of the bail are E. F. of , and G. H. of I am, &c.

Notice of special bail being filed in the common pleas.

G. G. agent for the defendant,

To Mr. S. T. agent for the plaintiff. 25th February 1774.

MR. TALBETT,

TAKE notice, that the above defendant at the time of trying the issue in this cause will give in evidence that the above plaintiff, at the time of the commencement of the above suit, was and still is indebted to this defendant in the sum of one thousand pounds, for goods, wares, and merchandizes sold and delivered by the said defendant to the above plaintiff; and also that the said plaintiff, before the commencing his said action against the said defendant, was and still is indebted to the said defendant in another sum of one thousand pounds, for money laid out, expended, and paid for the said plaintiff; and also that the said plaintiff, at the commencing his said action against the defendant, was and still is indebted to the said defendant in another sum of one thousand pounds for money lent and advanced to the said plaintiff; and that the said defendant will at the said trial sett off and allow to the plaintiff so much of the said several sums of money so due and owing to the said defendant against any demands of the said plaintiff, to be proved at the said trial, as will be sufficient to satisfy and discharge such demands, according to the form of the statute in such case made and provided. Dated the seventh day of October 1767.

Notice of sett off.

THOMAS BULCOCK,  
Attorney for the defendant.

In the King's Bench. Between { EDWARD PARKER, gentleman, one, &c. of K. B. plaintiff,  
and  
JOHN ASHWORTH, defendant.

Sir,

TAKE notice, that the writ of enquiry of damages will be executed against you in this cause on Friday the twentieth day of November instant, at the court-house in the Westminster Hall, in the county of Middlesex, between the hours of ten and twelve of the clock in the forenoon of the same day. Dated this eleventh day of November 1765.

Notice of executing an enquiry in ejectment.

Yours, &c.

EDWARD PARKER.

To John Ashworth, the above named tenant in possession.

VCL. X.

Q.

I HEREBY

Notice to pay  
double rent.

EDWARD SELLY,

I HEREBY require you to deliver to me on the twenty-ninth day of next , the possession of the Bair Ground, and of all other the lands and tenements which you hold of me in the parish of Puttlewell, in the county of Essex; and if you hold the same premises after that time, take notice, that you are from thenceforth to pay double yearly value of the same premises. Witness my hand this day of 1750.

Write landlord's  
authority to dis-  
train for him.

MR. GURNEY,

I DESIRE you will for me and, in my name, distrain the goods of Mr. John Constable, in Oxendon-street, for thirty-three pounds eight shillings, or such other sum as is due to me for rent of the house in which J. Constable now lives in Oxendon-street aforesaid; and if he shall not within the time limited by law for that purpose pay the rent, I desire you will cause the goods you shall so distrain to be appraised and sold, and dispose of the money arising thereby, according to the act of parliament in that case made and provided, for all which this shall be your authority, and I will indemnify you. Witness my hand this seventeenth day of October 1752.

SARAH LEWIS.

T. TALBOT.

In the parlour,

A chimney glass, &c.

In the office,

A wainscot bookcase.

Tenants request  
not to remove  
goods, but keep  
persons in pos-  
session.

WHEREAS there was due from me to Mrs. Sarah Lewis the sum of thirty-three pounds eight shillings on the tenth day of this present month of October, for an arrear of rent of my dwelling house in Oxendon-street, in the parish of Saint Martin in the Fields, in the county of Middlesex, for which Mr. Gurney hath this day distrained my goods in my dwelling house; now I hereby request the said Mr. Gurney not to remove the said goods, but to keep one person or persons in my said house for five days. If I do not before then pay the said rent and the charges of the said distress and keeping possession, to sell the said goods, and out of the monies arising by such sale, not only to pay the said rent and the charges of the said distress, but also to pay the person or persons so to be kept in my said house for remaining there as aforesaid. Witness my hand the fourteenth day of October 1752.

JOHN CONSTABLE.

Notice of dis-  
tress and entry,  
24th July 1736.

MR. WILLIAM HOME,

I HAVE this day distrained the above-mentioned goods and chattels in your dwelling house in Red Lion Court, Fleet street, in the parish of Saint Dunstan's in the West, London, for seven pounds,

# NOTICES.

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pounds, being a quarter of a year's rent, due for the said house at Midsummer last to Mr. John Jones; and unless you pay the said rent, or replevy the said goods in five days from the date hereof, the said goods will be appraised and sold according to act of parliament, whereof take notice from  
JOHN CHAPMAN.

The above-mentioned goods are removed into the house late in the possession of Mr. Wedley, in Red Lion Court aforesaid next adjoining to your said dwelling house; and the key of the said house lately in Mr. Wedley's possession is left with Mr. Aunham, the peruke maker, in Red Lion court aforesaid, who will shew you the goods if you have a mind to replevy the same.  
JOHN CHAPMAN.

MR. HUDSON,

TAKE notice, that the above-named defendant, at the trial of the issue in this cause, will give in evidence and prove that the said Richard Pattison, in his life time, and at the time of his death, was indebted to the said defendant in the sum of fifty pounds of lawful money of Great Britain, for so much money by the said Richard Pattison in his life time had and received for the use of the said defendant; and also in the further sum of fifty pounds of like lawful money, for so much money by the said defendant lent and advanced to the said Richard Pattison in his life time, and at his request; and also in the further sum of fifty pounds of like lawful money, for so much money by the said defendant before that time laid out and expended for the said Richard Pattison in his life time, and at his request; and also in the further sum of fifty pounds of like lawful money, upon an account stated and settled between the said Richard Pattison in his life time and the said defendant, which said several sums still remain wholly due and unpaid, and that the said defendant will at the said trial sett off so much of the said several sums of money so due and owing from the said Richard Pattison in his life time to the said defendant against any demands of the said plaintiff, as executor as aforesaid, to be proved at the said trial as will be sufficient to satisfy and discharge the said plaintiff's demands, according to the form of the statute in such case lately made and provided. Dated the                      day of                      1763.

Notice of sett off to an action brought by an executor.

Your's, &c. EDWARD PARKER,  
Defendant's agent.

Between { A. B. plaintiff,  
                    and  
                    C. D. defendant.

TAKE notice, that a declaration of debt on bond is filed conditionally against you as of this present                      term, with the clerk of the                      in the king's bench office in, the Inner Temple, London, at suit of the plaintiff A. B. and that unless  
Q 2                      you

Notice of declaration being filed in the king's bench, &c. bene offi.

## PRACTICAL FORMS.—

you plead thereto in eight days after the delivery hereof, judgment will be entered against you by default. Dated the      day of

1747.

G. G. attorney for the plaintiff.

To C. D. the above-named defendant.

## AFFIDAVITS.

In the Common Pleas. Between { A. B. plaintiff,  
and  
C. D. defendant.

Affidavit of an  
escape  
and  
rescue.

S. P. of, &c. maketh oath, that whereas a warrant under the seal of R. M. esquire, high sheriff of the said county, made and grounded on a special *capias* in case issuing out of this court to arrest the body of the defendant at the plaintiff's suit, and returnable on the morrow of the Holy Trinity now last past, was directed to this defendant and others of the said sheriff's bailiffs, he this deponent upon the      day of      now last past, did by virtue of the said warrant arrest the body of the said defendant; and the said defendant being in the custody of this deponent, S. P. by virtue of the said arrest, did forcibly escape and run away from this deponent, peremptorily refusing to give obedience to the said warrant: And this deponent further saith, that he, together with one Thomas Britton, another bailiff in the said bill named, did strictly pursue the said defendant, and on Thursday next after the said arrest made, being the      day of the same month of      he this deponent, together with the said S. P. found the said defendant at the house of one W. W. in      in the said county, and endeavoured to retake him, but the said W. W. and one J. P. being in company with the said defendant, assaulted this deponent and the said J. B. and would not suffer them to come near the said defendant to retake him, but the said W. W. then having a gun in his hands threatened to shoot this deponent and the said S. B. if they offered to take or lay hold of the said defendant, and thereby rescued him the defendant, and so far obstructed this deponent and the said S. B. in the execution of the said warrant, that by that means the said defendant, against this deponents and the said S. B.'s will, did make their escape from them. S. P.

Sworn, &c.

In the King's Bench. Between { A. B. plaintiff,  
and  
C. D. defendant.

Affidavit of no-  
ties of trial be-  
ing given.

G. G. of, &c. gentleman, and L. G. of the same place, gentleman, severally maketh oath as follows: and first this deponent, G. G. maketh oath and saith, that issue was joined in this cause in Trinity term last; and that on or about the      day of

last,

last, he this deponent received notice of trial in this cause for the last affizes to be held for the county of L. but that the said cause was not tried in pursuant of such notice, as this deponent is informed, and verily believes; and this deponent, L. G. for himself saith, that he did on the                      day of                      instant, serve Mr. F. the plaintiff's agent, with the notice hereunto annexed, by putting a true copy thereof under the said Mr. F's chamber door; and this deponent further saith, that he hath since seen the said Mr. F. and he told this deponent that he had received the same.                      G. G.

Sworn, &c.

L. G.

A. B. of                      maketh oath, that he was present and did see Affidavit of A. B. of                      , esquire, barrister at law, and Oliver Edwards, signing a certificate to admit one of the sworn clerks of the six clerks' office, severally set and subscribe their names to the certificate above; and that the names of A. B. C. D. and the said O. E. are of the several and respective hand writings of them the said                      solicitor in the high court of chancery.

Sworn at the Public office.

In C. P.

I DO hereby submit and undertake to pay Mr. G. G. my late attorney, whatever upon taxation of his bill delivered to me in this and other causes that shall be found due to him, according to the late act of parliament in that case made and provided. An affidavit of undertaking to pay bills.

Dated, &c.

E. F.

Witness, G. H.

G. H. of, &c. maketh oath that the above E. F. did sign the above undertaking.

In B. R. Between { A. B. plaintiff,  
and  
C. D. defendant.

E. S. of, &c. maketh oath that he his deponent did on the day of                      instant, deliver unto the said defendant C. D. a true copy of the declaration hereunto annexed, he being then a prisoner in the gaol, prison, or castle, in the county of Lancashire; and this deponent saith, that the said defendant was arrested or charged in custody at the suit of the plaintiff, by virtue of a *latitat* issuing out of this honourable court, return before the delivery of the said declaration.                      Affidavit of delivering declaration to a prisoner.

E. S.

Sworn, &c.

In the King's Bench. Between { A. B. on the demise of C. D.  
plaintiff;  
and  
E. F. defendant.

R. E. of, &c. maketh oath, that he this deponent did on the day of                      instant, deliver a true copy of a declaration hereunto                      Affidavit of serving declaration in

## PRACTICAL FORMS.—

hereunto annexed, unto S. D. tenant in possession of part of the premises in the said declaration mentioned; and also on the same day did deliver one other true copy of the said declaration unto A. D. tenant in possession of another part of the premises, under which said declaration and copy so delivered respectively in the words or to the term following, that is to say, I am informed, &c. And this deponent further saith, that at the times of such delivery, he read over to the said S. D. and A. D. respectively the said notice subscribed to the said declaration and copies, and acquainted them severally with the true intent and meaning thereof.

Sworn, &c.

R. E.

*name of process &c. in reply and*  
*1004*

In B. R.

Affidavit to enter up judgment on an old warrant of attorney.

A. B. of, &c. maketh oath, that he this deponent did, on the day of this instant April, see and converse with Isaac Watts, oatmeal maker, and William Watts, writing master, both of Hambrook, within the parish of Winterbourn, in the county of Gloucester, being the persons mentioned in the warrant of attorney hereto annexed, and that the said Isaac Watts and William Watts were then very well in health; and this deponent saith, that the sum of ninety-five pounds mentioned in the said warrant of attorney is wholly unpaid and unsatisfied, and that the said warrant of attorney annexed was duly executed by the said Isaac Watts and William Watts respectively. A. B.

Sworn, &c.

In the King's Bench. Between { GEORGE JONES, plaintiff,  
and  
CHARLES POCOCK, defendant.

Infant's affidavit of his infancy, in order to the appointment of a *prochein ami* to sue for him, and the next friend's consent.

JOHN JONES, of, &c. and the above-named plaintiff George Jones, jointly and severally make oath as follows: and first the said George Jones for himself saith, that he is an infant under the age of twenty-one years, to wit, the age of eighteen years, or thereabouts: And this deponent further saith, that he is desirous that the said John Jones, this deponent's father, may be admitted his guardian to prosecute or defend all causes wherein this deponent is or may be made a party in this honourable court during the minority of him this deponent; and the said John Jones for himself saith, that he is willing to be admitted the guardian of the said George Jones, to prosecute or defend as above set forth.

Affidavit of the value of goods in order to obtain a replevin.

ELIZABETH CROWDER, of the parish of Saint Mary le Savoy, in the county of Middlesex, widow, maketh oath that the goods and chattels hereinafter mentioned, to wit, [Here insert the goods] have lately, as this deponent has been informed and verily believes, been distrained for rent due or pretended to be

# AFFIDAVITS.

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be due to him from one Ann Longland, widow, and which goods are of the value of ten pounds, and no more, as this deponent believes: And this deponent further saith, that she is not interested in the said goods or chattels, or in the distress made thereof by the said T. B.

JOHN TALBOT, of Symond's-Inn, Chancery lane, London, gentleman, maketh oath and saith, that he this deponent did, on the twenty-fifth day of May instant, see the above-named plaintiff, Sarah Mills, sign, seal, and deliver the letter of attorney hereunto annexed: And this deponent further saith, that the name, Sarah Mills, set and subscribed to the said letter of attorney, is the proper hand writing of the said Sarah Mills, and the names of this deponent and Thomas Starkie, set and subscribed to the said letter of attorney as witness of the due execution thereof, are of the respective proper hands writing of this deponent and of the said Thomas Starkie.

Affidavit of executing letter of attorney.

J. T.

Sworn, &c.

JOHN VARLEY, of, &c. maketh oath, that on the twenty-fifth day of May instant, he this deponent served the said defendant Hugh Price personally with the rule of court and taxation of costs hereunto annexed, by delivering to him a true copy of the same rule and taxation of costs, and at the same time shewed him the said rule and taxation; and this deponent then also by virtue of a letter of attorney, executed by the said plaintiff for that purpose, which the said deponent there also shewed to the said defendant, and demanded of the said defendant the sum of thirteen pounds twelve shillings, at which it appears on the margin of the said rule that the same costs have been taxed, but the said defendant then refused to pay the same costs to this deponent, and has not yet paid the same costs, or any part thereof, to him this deponent.

Affidavit of demanding the money on a rule of court, & taxation of costs.

Sworn, &c.

Upon these affidavits the court was moved without notice of motion, and the court made the following rule, viz.

Easter term, 27 Geo. II.

MILLS } WEDNESDAY, May the first, it is ordered, Rule.  
against }  
PRICE. } that the defendant shall pay to plaintiff or her attorney, eleven pounds, together with costs, to be taxed by Mr. Prothonotary Jones, if the plaintiff will accept thereof, and that thereupon all further proceedings in this action shall be stayed; but if the plaintiff will not accept thereof, the defendant shall immediately bring the said eleven pounds into this court and plead the general issue, and upon trial of the issue between the said parties, the plaintiff shall become nonsuit, or the jury shall not assess damages to the plaintiff exceeding the said eleven pounds,

## PRACTICAL FORMS.—

then the plaintiff shall have no costs to be taxed by said Prothonetary; which costs shall be paid out of the money so brought, if sufficient for that purpose, and the residue, if any, shall be paid to the plaintiff, but if the money so brought into court be not sufficient to pay the said costs, the deficiency shall be made good by the plaintiff; but if upon trial of the issue the jury shall assess damages to the plaintiff exceeding the said eleven pounds, then judgment shall be entered for the plaintiff upon the verdict with costs, and the plaintiff shall have the said eleven pounds out of court towards satisfaction of such damages, and may take out execution for the residue.

By the court, ——— P.

On the motion of Serjeant Draper for the plaintiff.

This was a motion of course, with only half a guinea to the Serjeant.

Upon this rule was made out the attachment.

In the King's Bench.

{ EDWARD HARRIS, plaintiff.  
WM. GREEN, Esq. defendant.

*Affidavit to move for attachment for not returning the writ.*

HENRY DAWSON of, &c. maketh oath and faith that he this deponent did, on the sixth day of November instant, serve the sheriff of Middlesex at the sheriff's office in Furnival's Inn with a true copy of the rule hereunto annexed, by delivering the same to Mr. Frith, a clerk or agent at the said office, and at the same time shewing him the said original rule hereunto annexed: And this deponent faith that he hath this day searched with Mr. Heberdon at the king's bench office, and also at the custos brevium office, for the return of the bill of Middlesex in this cause, but there doth not appear to be any return of the said bill filed in either of the before-mentioned offices, nor hath this deponent received any return thereof from the said sheriff. HENRY DAWSON.

Sworn in open court, this twelfth }  
day of November, 1770. }  
By the court,

In the King's Bench. Between

{ JOHN CUMMINS, plaintiff,  
and  
S. A. JARVIS TWISDEN, bart.  
defendant.

*Affidavit of debt by assignee of a judgment against the party in whom it obtained to him to bail.*

JOHN CUMMINS JOHNS, of in the county of Devon, esquire, maketh oath and faith that sir William Twisden, bart. is justly indebted unto him this deponent in the sum of two hundred pounds of lawful money of Great Britain as assignee of a judgment heretofore, to wit, as of Trinity term, in the twenty-fourth year of the reign of our lord the now king George the Third, recovered in this honourable court by the said John Cummins against him the said defendant upon and by virtue of his certain writing obligatory before then duly made to him the said

John

John Cummins in the penal sum of eleven hundred pounds, and which said judgment is now duly assigned to him this deponent by the said John Cummins for a good and valuable consideration, and now remains in full force, strength, and effect, not reversed, vacated, or satisfied.

Sworn, &c.

I have drawn this affidavit in the best way I can; and though it seems somewhat irregular to make the affidavit in the name of one and sue in another, yet the nature of the case requires it, as a

close in action is not assignable so as to give the assignee a right to sue in his own name upon it, though the court will compel the assignor to lend his for that purpose.

T. BARROW.

*chose*

JOHN HOLMDEN, esquire, maketh oath that Henry Holloway, of, &c. maltster and chapman, is and stands justly and truly indebted unto him this deponent in the sum of one hundred pounds and upwards of lawful money of Great Britain for money lent and advanced to the said H. H. by this deponent; and the said H. H. is become a bankrupt within the true intent and meaning of the statutes made and now in force concerning bankrupts, as this deponent is informed and verily believes.

*Affidavit to sue  
out a commission  
of bankruptcy.*

J. H.

Sworn, &c.

## WRITS—ORIGINAL, JUDICIAL, AND FINAL.

GEORGE the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. to our Chancellor of our county palatine of Lancaster, or to his deputy there, greeting: Whereas by our writ we commanded you that by our other writ under the seal of our said county palatine duly to be made out, and to be directed to the sheriff of the same county, you should command the said sheriff that he should cause to be made of the goods and chattels of Richard Beal in his bailiwick two hundred pounds of debt which Thomas Fielding lately in our court before us at Westminster had recovered against him, and also sixteen pounds ten shillings which in our said court before us were adjudged to the said Thomas for his damages as well on occasion of detaining that debt as for his costs and charges by him about his suit in that behalf laid out, whereof the said Richard is convicted, as appears to us of record, and that you should have that money before us at Westminster on Wednesday next after three weeks from the day of the Holy Trinity now past, to be paid to the aforesaid Thomas for his debt and damages aforesaid, and you upon that day thereupon returned to us that you by virtue of the said writ to you directed by another writ under the seal of our said county palatine, and directed to the said sheriff of the said county, had commanded the same sheriff as the said chancellor of

*Special capias ad  
satisfaciendum  
into a county  
palatine for the  
residue of de-  
fendant's debt  
after fieri facias  
returned.*

## PRACTICAL FORMS.—

of the aforesaid writ directed to him was commanded, which said sheriff, to wit, Dalby Rusbotham, esquire, in answer to the said writ, said, that by virtue of the said writ to him directed and delivered he had caused to be levied of the goods and chattels of the said Richard Peel the sum of eight pounds towards the debt and damages aforesaid, and that the said Richard Peel had no other goods and chattels within his bailiwick whereby he could levy the remainder of the said debt and damages, or any part thereof, as by the said writ he was commanded; therefore we command you, that by our other writ under the seal of our said county palatine duly to be made out and to be directed to the sheriff of the said county you command that he take the said Richard Peel if he shall be found in his bailiwick, and him safely keep, so that he may have his body before us at Westminster on Monday next after the morrow of All Souls to satisfy the said Thomas in two hundred and sixty-eight pounds eight shillings, the residue of the debt and damages aforesaid, and have there then this writ. Witness William lord Mansfield, at Westminster, the fourteenth day of June, in the ninth year of our reign. LEE.

*Non omittas capias  
et satisfaciendum  
in debet for the  
residue after part  
had been levied  
under a fieri fa-  
cto.*

GEORGE the Third, &c. to the sheriff of Derbyshire, greeting: Whereas we lately commanded you by our writ that you should not omit by reason of any liberty within your county, but that you should enter the same, and of the goods and chattels of Daniel Roper in your bailiwick you should cause to be made eight hundred pounds which Joseph Bushly and Mary his wife (which said Mary is administratrix of all and singular the goods, chattels, and credits which were of John Wall, late of Wirksworth, in your county, deceased, unadministered by John Wall the younger, deceased, in his life time executor of the last will and testament of the said John Wall, of Wirksworth aforesaid, with the will of the said John Wall, of Wirksworth aforesaid, annexed) had lately in our court before us at Westminster recovered against him of debt, and also ninety-three shillings which to the said J. Bushly and Mary his wife in our court before us were adjudged for their damages which they had sustained as well on occasion of detaining that debt as for their costs and charges by them about their suit in that behalf laid out, whereof the said Daniel was convicted, as appears to us of record, and that you should have that money before us at Westminster on Friday next after the morrow of the Holy Trinity, to render to the said Joseph Bushly and Mary his wife for their debt and damages aforesaid, and you upon that day thereupon returned to us that you by virtue of the said writ to you directed had levied of the goods and chattels of the said Daniel Roper fifty-eight pounds twelve shillings and threepence (besides poundage, bailiff's fees, and expences of levying) towards the sum of eight hundred pounds and ninety-three shillings, which sum of fifty-eight pounds twelve shillings and threepence you had ready

ready at the day and place aforesaid to be paid to the said Joseph B. and Mary his wife, towards the debt and damages aforesaid, as you by the writ aforesaid was commanded; and you further certified that the said D. Roper had no other goods or chattels in your bailiwick whereof you could make the residue of the said debt and damages; therefore we command you that you do not omit by reason of any liberty in your county, but that you enter the same, and take the said Daniel R. if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at Westminster on            next after            to satisfy the said James Bushly and Mary his wife seven hundred and forty-six pounds and ninepence, the residue of the said eight hundred pounds and ninety three shillings, the debt and damages aforesaid, and have there then this writ.    Witnesses, &c.

STORMONT AND WAY.

GEORGE, &c. to our sheriff of           , greeting: We com-<sup>Testatum capias</sup> mand you that you take, &c. [as in a common *capias ad satisfaciendum* <sup>ad satisfaciendum</sup> *tisfaciendum*, see folio p. 233, to the words "as appears to us of (either debt or record," then add] and whereupon our sheriff of            returned to <sup>case</sup> us at a certain day now past that the said C. D. was not found in his bailiwick, whereas it is sufficiently attested in our said court before us that the said C. D. doth lurk and secrete himself in your county, and have there then, &c.

TO our chancellor of our county palatine of Lancaster, or his <sup>Testatum capias</sup> deputy there, greeting: We command you, that by our writ, <sup>ad satisfaciendum</sup> &c. &c. [as in the *capias ad satisfaciendum* to a county palatine, <sup>in a county palatine.</sup> and after the word "record" add] and whereupon, &c. [as above, only instead of "your county" say] doth lurk, &c. in our said county palatine [or into the city of Chester, "in the said city of Chester."]

Observe the above directions as to *testatum capias ad satisfaciendum*, only instead of the words "was not found, &c." say <sup>Testatum fieri facias</sup> returned, &c. that the said C. D. had not any goods or chattels in his bailiwick whereof he could cause the said monies to be levied, whereas it is sufficiently attested in our court before us that the said C. D. hath goods and chattels sufficient in your bailiwick whereof you [or in our said county palatine whereof the said sheriff] may cause the said monies to be made, and have, &c.

And whereupon our chancellor of our county palatine of Lancaster returned to us at a certain day now past that the sheriff of <sup>Testatum fieri facias, or fieri facias</sup> our said county palatine in answer to our writ to him directed had <sup>quis</sup> returned to him our said chancellor that the said C. was not found, <sup>county palatine</sup> or had any goods, &c. as above.

GEORGE

Form of a *testamentum capies* in the king's bench.

GEORGE the Third, &c. (*a*) to the sheriff of Lincolnshire, greeting: We command you (*b*), that you take Edward Holford, late of Holbeach, in your county, chapman, if he shall be found in your bailiwick, and safely keep him, so that you may have his body before us wheresoever we shall then be in England, to answer to Peter Sellon in a plea, that whereas, &c. [to "as it is said"] and for that our sheriff of Middlesex returned to us at a certain day now past that the said Edward was not found in his bailiwick, whereupon on the behalf of the said Peter it is certified in our court before us that the said Edward runs up and down and secretes himself (*c*) in your county, and have you there this writ. Witness William earl of Mansfield, at Westminster, the day of , in the year of our reign.

ADAMS.

You are served with this precept to the intent that you may by your attorney appear in his majesty's court of king's bench at the return thereof, being the day of 1780, wheresoever the same shall then be in England, in order to your defence in this action.

(*a*) If in county palatine, to our chancellor of our county palatine of Lancaster, chamberlain of our county palatine of Chester, to the right reverend John, by divine providence, bishop of Durham, or to his deputy there, greeting: We command you, that by our writ under the seal of our county palatine duly to be made out, and to be directed to the sheriff of the same county, you command the same sheriff that

he take , late of , in county palatine, chapman, if he shall be found in his bailiwick, and safely keep him, so that he may have his body before us, &c.

(*b*) If *non omittas*, then you omit not by reason of any liberties within your bailiwick, but that you enter the same, and take, &c.

(*c*) If into a county palatine, in our said county palatine.

*Copias ad satisfaciendum* against bail after a *scire facias*.

GEORGE the Third, &c. to the sheriff of London, greeting: We command you, that you take Thomas Richardson, of Cheapside, London, taylor, and Walter Barry, of Cheapside, London, baker, the bail of Henry Jenkins, if they shall be found in your bailiwick, and them safely keep, so that you may have their bodies before us at Westminster on Monday next after eight days of the Purification of the Blessed Virgin Mary, to satisfy William Coales and Philip Dean Shute four hundred and ninety-two pounds ten shillings, which the same William and Philip Dean have lately in our court before us at Westminster, by bill, without our writ, and by the judgment of the said court, recovered against him the said Henry for their damages which they had sustained as well by reason of the not performing certain promises and undertakings by him the said Henry to the said William and Philip Dean lately made, as for their costs and charges by them about their suit in that behalf expended, whereof the said Henry is convicted, as appears to us of record; and wherein in our court before us at Westminster it has been considered that the

said William and Philip Dean should have their execution against the said Thomas Richardson and Walter Barry for their damages aforesaid, according to the force, form, and effect of a certain recognizance by them the said Thomas and Walter in our said court before us for the said Henry Jenkins at the suit of the said William and Philip Dean at the suit aforesaid, acknowledged by the default of the said Thomas and Walter, as it appears likewise to us of record; and have there then this writ. Witness, &c.

STORMONT AND WAY.

GEORGE the Third, &c. to the sheriff of Derbyshire, greeting: We command you, that you take Robert Eyley, otherwise Eley, if he may be found in your bailiwick; and safely keep him, so that you may have his body before us at Westminster, on Monday next after the octave of Saint Hilary, to satisfy J. Oates in twenty one pounds for his damages which he hath sustained by reason of a certain trespass and ejectment committed by the said Robert against the aforesaid James with force and arms against our peace as for his costs and charges by him put to about his suit in this behalf, whereof the said Robert is convicted, as it appears to us of record; and have there then this writ. Witness William lord Mansfield, at Westminster, the twenty-eighth day of November, in the ninth year of our reign. *Capias ad satisfaciendum in ejectment for damages and costs.* LEE.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: We command you, that by our writ under the seal of our said county palatine of Lancaster duly to be made out, and to be directed to the sheriff of the same county, you command the said sheriff that he take Joshua Hoyle and Mary his wife, if they shall be found in his bailiwick, and safely keep them, so that you may have their bodies before us at Westminster, on Monday next after the octave of Saint Hilary, to satisfy John Doe forty-five pounds which the said John lately in our court before us at Westminster recovered against the said John and Mary for his damages which he hath sustained by occasion of a certain trespass and ejectment committed by the said Joshua and Mary against the said John, with force and arms, and against our peace, at Whalley, in your county, as for his costs and charges by him about his suit in that behalf laid out, whereof the said Joshua and Mary are convicted, as appears to us of record; and have you there this writ. Witness, &c. *Capias ad satisfaciendum in ejectment into a county palatine.* LEE.

GEORGE the Third, &c. to the sheriff of Derbyshire, greeting: Whereas we lately commanded you by our writ that you should cause to be made of the goods and chattels of Robert Eyley, otherwise Eley, in your bailiwick, twenty-one pounds which *Capias ad satisfaciendum in ejectment for the residue after part had been levied James under a fieri fa-*

## PRACTICAL FORMS.—SCIRE FACIAS—

James Oates lately in our court before us at Westminster recovered against him as well by reason of a certain trespass and ejectment lately committed by the said Robert against the aforesaid James, as for his costs and charges by him about his suit in that behalf expended, whereof the said Robert is convicted, as appears to us of record; and that you should have that money before us at Westminster on Monday next after fifteen days from the day of Saint Martin, to be paid to the said James for his damages, costs, and charges aforesaid; and you upon that day thereupon returned to us that you by virtue of the said writ to you directed did cause to be levied of the goods and chattels of the said Robert two shillings, part of the damages aforesaid, which said money before us at the day and place aforesaid you had ready, as by the writ aforesaid you was commanded, to be paid to the said James in part satisfaction of those damages; and you further certified that the said Robert had no other or more goods and chattels in your bailiwick whereof you could cause to be made the residue of the damages aforesaid, or any part thereof; therefore we command you that you take the said Robert if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at Westminster on                      next after                      to satisfy the said James twenty pounds eighteen shillings, the residue of the said twenty-one pounds, the damages aforesaid, and have then there this writ.

Witness William lord Mansfield.                      LXX.

*Scire facias against bail in debt in B. R.*

GEORGE the Third, &c. to our sheriff of                      , greeting: Whereas A. B. lately in our court before us at Westminster, by bill, without our writ, and by the judgment of the same court, recovered against C. D. as well a certain debt of                      pounds as also                      shillings which were adjudged in our same court to the said A. B. for his damages which he sustained as well by occasion of the detaining of that debt as for his costs and charges by him about his suit in that behalf laid out and expended, whereof the said C. is convicted, as appears to us of record; yet execution of the said judgment still remains to be done; and whereas E. F.                      , in the                      , baker, and G. H.                      , in the                      , cordwainer, heretofore, to wit, in the term of                      , in the                      year of our reign, in our said court before us at Westminster, came personally, and became pledges and bail for the said C. D. that if it should happen the said C. should be condemned in the plea aforesaid, then they the said E. F. and G. H. and each of them for himself granted that as well the debt, as also such damages, costs, and charges as should be adjudged to the said A. B. in that behalf should be made of their and each of their lands and chattels, and to be levied to the use of the said A. B. if it should happen that the said C. D. should not pay the said debt and damages, costs, and charges to the said A. B. or should not render himself to the prison of the marshal of our Marshalsea before us; yet the said C. D. hath not paid to the said A. B. the said debt and damages, costs, and charges,

nor

## ATTACHMENTS.

nor surrendered himself to the prison of the marshal of our Marshalsea before us, as we have received information from the said A. in our said court before us, whereupon the said A. hath prayed us to provide him proper remedy in this behalf, and we being willing to do what is just, command you, that by honest and lawful men of your bailiwick you make known to the said E. F. and G. H. that they be before us at Westminster on            next after to shew if they have or know any thing to say for themselves why the said A. B. ought not to have execution against them according to the force, form, and effect of the said recognizance, if it shall seem expedient, &c. and further to do and receive all and singular those things which our said court before us shall then and there consider of them in this behalf; and have you there then the names of those by whom you shall have made this known unto them, and this writ. Witness William lord Mansfield, at Westminster, the       day of       , in the       year of our reign.

LEE.

GEORE the Third, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: We command you, that by our writ under the seal of our said county palatine duly to be made out, and to be directed to the sheriff of the same county, you command the same sheriff that he attach C. D. and E. F. if they may be found in his bailiwick, and safely keep them, so that he may have their bodies before us at Westminster on       next after to answer A. B. gentleman, one of the attornies of our court before us, according to the liberties and privileges of such attornies time out of mind used and approved of, to answer us concerning such matters and things, &c. and in the said court of a plea of trespass; and have you there then this writ. Witness, &c.

LEE.

GEORGE the Third, &c. to the sheriff of       , greeting: Attach C. D. and E. F. so that you may have them before our justices at Westminster on       next after to answer A. B. gentleman, one of the attornies of our court of common pleas, according to the liberties and privileges of the same court for such attornies and other ministers time out of mind used and approved in the same court of a plea of trespass upon the case; and have you there then this writ. Witness sir John Eardley Wilmot, knight, at Westminster.

DICKINS.

[GO on as in another, until you come to "to answer us concerning such matters and things," &c. and then indorse on the back] by rule of court dated the       day of       , for not performing the award. Attachment for not performing an award, in C. B.

COOKE.  
GEORGE

## HABEAS CORPUS.—WRIT DE INQUIRENDO (a)

*Habeas corpus  
ad recipiendum  
in B. R.*

GEORGE the Third, to the marshal of our Marshalsea before us being, greeting : We command you, that you have the body of C. D. detained in our prison under your custody, as it is said, under safe and secure conduct, together with the day and cause of his being taken and detained, by whatsoever name he may be called in the same, before us at Westminster on      to answer A. B. of a plea of trespass, and also to a bill of      by him the said A. against him the said C. for      pounds on promise, according to the custom of our court before us to be exhibited, and also to do and receive all and singular those things which our said court shall then and there consider of him in this behalf. Witness William lord Mansfield, at Westminster, the      day of      , in the      year of our reign.      LEE.

*Habeas corpus  
where judgment  
goes against one  
defendant by  
default.*

GEORGE the Third, &c. [as in others, till you come to] jurors, &c. before, &c. at W. between the right honourable Peter lord King, baron of Oclan, plaintiff, and William Hawkins, late of, &c. defendant, of a plea of trespass upon the case, and to enquire what damages the said lord King hath sustained by occasion of the trespass upon the case aforesaid done to the said lord King by one William Hawkins, late of, &c. together with the said William Hawkins, whereof the aforesaid William Hawkins our court before our justices at Westminster is convicted by default; and have you this writ. Witness sir John Eardley Wilmot, knight, at Westminster, &c.

*Brevium de in-  
quirendo in dower.*

GEORGE the Third, &c. to the sheriff of S. greeting : Know you that H. K. widow, who was the wife of Francis K. deceased, in our court before our justices at Westminster, recovered her seisin against Francis Keen and J. Keen of the third part of one messuage, five gardens, one hundred acres of land, twenty acres of meadow, sixty acres of pasture, twenty acres of wood, twenty acres of furze and hearth, and common of pasture for all manner of cattle, in the parish of      , in your county, as her dower, by the endowment of the said Francis K. deceased, her late husband, by our writ of dower, whereof she hath had nothing, by default of the said F. K. and therefore we command you, that without delay you cause the said H. K. to have full seisin of the third part aforesaid to be delivered to her, to hold to her in severalty by due metes and bounds, and in what manner you shall execute this our precept do you make appear to our justices at Westminster [The return] : We command you also, that by the oath of honest and lawful men of your county, you diligently enquire if the said F. died seised of the tenements and common aforesaid in his demesne as of fee tail, and if by the said inquisition you shall find he did, that you then by your said oath diligently

enquire what is the value of the tenements and common aforesaid, beyond all reprises, and what time hath elapsed since the death of the said F. and also what damage the said H. hath sustained, &c. well by reason of the detaining her aforesaid dower as for her costs and charges laid out and expended by her about her suit in this behalf, and the inquisition which you shall take thereof do you make appear to our justices at Westminster at the said term, under your seal and the seals of those by whose oath you shall take such inquisition; and have you there the names of those by whose oath you shall take this inquisition, and this writ. Witness, &c.

COOKE.

GEORGE the Third, &c. to the Sheriff of Middlesex, greeting: We command you that you take Richard Hamby if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at Westminster, on next after to satisfy John Evans twenty-two pounds ten shillings, which the said John lately in our court before us at Westminster recovered against him for his damages which he had sustained as well by reason of the converting and disposing of divers goods and chattels of the said John by the said Richard, before then converted and disposed of to his own use, as for his costs and charges by him about his suit in that behalf expended, whereof the said Richard is convicted, as appears to us of record; and also ten pounds, which were adjudged to the said John in our exchequer chamber at Westminster, according to the form of the statute in such case made and provided, for his damages, costs, and charges which he had sustained and laid out by occasion of the delay of the execution of the judgment aforesaid on pretence of prosecuting our writ of error by the said Richard, prosecuted of and upon the premises before our justices of the bench and the barons of the exchequer of our degree of coif, in our exchequer chamber aforesaid, according to the form of the statute in such case made and provided, whereof the said Richard is also convicted, as appears to us of record; and also nine pounds ten shillings which the said John lately in our court before us at Westminster, recovered against the said Richard for his damages which he had sustained as well by reason of the detention of the said first-mentioned damages, costs, and charges, as for his costs and charges by him about his suit in that behalf expended, whereof the said Richard is also convicted, as appears to us of record; and twelve pounds which were adjudged to the said John in our said exchequer chamber, at Westminster aforesaid, according to the form of the statute in such case made and provided, for his damages, costs, and charges which he had sustained and laid out by occasion of the delay of the said last-mentioned judgment, on pretence of prosecuting our writ of error by the said Richard prosecuted of and upon the premises last aforesaid, before our justices of the bench and the barons of our exchequer chamber of the degree of the coif, in our exchequer chamber aforesaid.

Writ of capias  
ad satisfaci-  
endum for debt  
and costs in the  
first action,  
which was in  
trover, and the  
costs in error and  
in debt on the  
judgment, and  
costs in error on  
the last-men-  
tioned judg-  
ment.  
The debt and  
costs in the first  
action which  
was in trover.  
The costs in  
error in the ex-  
chequer.

The costs in the  
action upon the  
judgment.

Costs in error  
upon the last-  
mentioned judg-  
ment.

## WRITS FINAL.—RETORNO HABENDO.

said, according to the form of the statute in such case made and provided, whereof the said Richard is also convicted, as appears to us of record; and have there then this writ. Witness Lloyd lord Kenyon, at Westminster, the seventeenth day of July, in the thirty-first year of our reign.

*Drawn by Mr. Tidd.*

*Writ of retorno  
habendo on a  
judgment after  
cognizance.*

GEORGE the Third, by the grace of God, of Great Britain, &c. to the sheriff of Middlesex, greeting: Whereas C. T. lately in our court before us at Westminster, was summoned to answer W. L. in a plea, wherefore the said C. T. on the twenty-eighth day of July, in the year of Our Lord 1789, in a certain dwelling-house of him the said W. in the parish of St. Dunstan, Stepney, in the county of Middlesex, and within the jurisdiction of our said court, before us, took the goods and chattels of him the said W. to wit, [State the goods as in the declaration] and there unjustly detained the same against sureties and pledges, until, &c. and the said C. T. appearing in our said court before us for certain causes by him alledged in our said court as bailiff of W. N. and J. N. well acknowledged the taking of the said goods and chattels in the said dwelling-house in which, &c. for certain arrears of rent, to wit, for the sum of nine pounds, part of the yearly rent of twenty pounds of lawful, &c. due and in arrear to the said W. and J. Newberry, for the said dwelling-house in which, &c. with the appurtenances, held and enjoyed under and by virtue of a certain demise thereof, for the space of two years and one quarter of another year next before and ending on the twenty-fourth day of June, A. D. 1789, the residue of the said rent for the space of two years and one quarter of another year ending as aforesaid, being paid and satisfied; whereupon the said W. L. although solemnly called in our said court before us, came not, nor did he further prosecute his writ aforesaid; wherefore it was considered in our said court before us that the said W. L. should take nothing by his writ aforesaid, but that he and his pledges to prosecute should be in mercy, and that the said C. T. should go thereof without day, &c. and that he should have a return of the said goods and chattels to hold to him irreplevisable for ever; therefore we command you, that without delay you cause the said goods and chattels to be returned to the said C. T. to hold to him irreplevisable for ever, and that you do not deliver them on the complaint of the said W. L. without our writ, which expressly mentions the judgment aforesaid, and how you shall have executed this our writ make appear to us on , wheresoever we shall then be in England; and have there this writ. Witness Lloyd lord Kenyon, at Westminster, the day of , in the thirty-first year of our reign.

*Drawn by Mr. Tidd.*

GEORGE

GEORGE the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, and so forth, to the sheriff of <sup>*Fieri facias* on judgment for costs for want of surrejoinder.</sup>, greeting: We command you that you cause to be made of the goods and chattels in your bailiwick of William Gevers pounds, which lately in our court before us were adjudged to Charles Shepherd, according to the form of the statute in such case made and provided, for his costs and charges by him laid out about his defence in a certain plea of trespass prosecuted in our said court before us by the said William against the said Charles, for that the said Charles had not surrejoined to certain rejoinders made by the said W. in the said plea whereof the said C. is convicted, as appears to us of record; and have you there that money before us at Westminster, on next after, to render to the said William for his costs and charges aforesaid; and have you there then this writ. Witness Lloyd lord Kenyon, the day of in the thirty-second year of our reign.

STORMONT and WAY.

LONDON, to wit. Command J. F. late of, &c. that justly and without delay he render unto H. E. and S. C. (which said S. C. is assignee of the estate and effects of J. S. a bankrupt, according to the form and effect of the several statutes concerning bankrupts) the sum of one hundred and ninety-three pounds of good and lawful money of Great Britain, which he owes to and unjustly detains from them, as it is said: And unless, &c. to H. E. and S. C. (which said S. C. is assignee of the estate and effects of J. S. a bankrupt, according to the force, form, and effect of the several statutes concerning bankrupts) of a plea that he render to them the said H. E. and S. C. (as the said S. C. is assignee as aforesaid) the sum of one hundred and ninety-three pounds of good and lawful money of Great Britain, which he owes to and unjustly detains from them, as it is said; and have you there this writ. Witness, &c.

GEORGE, &c. to the sheriff of Cornwall, greeting: Whereas William Threadneedle, lately in our court before our justices at Westminster, by the consideration of the same court recovered his term yet to come of and in three messuages, &c. [as in the declaration], with the appurtenances, in the parish of Denanzable, in your county, against Thomas Evans, late of, in your county, which John Allen, gentleman, on the twentieth day of August, in the eighth year of our reign, demised to the said William, to hold and enjoy to the said William and his assigns from the twelfth day of July then last past to the full end and term of five years then next following, and fully to be complete and ended, which is not yet expired, and ejected the said William out of his said farm; therefore we command you that you cause the said William to have his possession of his said term yet to come of and in the said tene-

244 WRITS JUDICIAL.—ATTACHMENT.—CERTIORARI.—SUPERSEDEAS.—

ments, with the appurtenances; and how you should have executed this precept make appear to our justices at Westminster in fifteen days from the feast day of Easter; and have you there this writ. Witness, &c.

Attachment a-  
gainst the sheriff  
in C. P.

GEORGE, &c. to our coroners of our county of Cornwall, greeting: Attach A. B. esquire, our sheriff of our said county of Cornwall, so that you may have him before our justices at Westminster, on Wednesday next after fifteen days of Easter Day, to answer us of such things which on our behalf should be then objected to him; and have you there this writ. Witness, sir John Willis, knight, at Westminster, the twenty-first day of February, in the twelfth year of our reign. COOKE.

Certiorari to  
inferior court.

GEORGE the Third, &c. to the steward of our stannary court of Blackmore, in the county of Cornwall, or to his deputy there greeting: We being willing to be certified certain causes of all suits or plaints, bills, pleas, and demands in our courts before you levied, brought, or begun, now depending or undetermined between A. Geny, widow, plaintiff, and J. Hillman, defendant, and of all records and proceedings therein had or made, we command you that the said suits or plaints, bills, pleas, or demands aforesaid, and all the records and proceedings therein, with all things relating thereto, as fully and entirely as the same now remain before you, by whatsoever name or names the parties aforesaid, or either of them, are called in the same, together with the day and days of levying of them, and every of them, you distinctly and plainly make appear to our justices at Westminster, in eight days from the day of St. Hilary, that our said court consider the premises may cause therein to be further done what is just and right in that behalf; and have you there then, &c.

Superseas in  
K. B. for want  
of charging in  
execution.

GEORGE the Third, &c. to the sheriff of Hertfordshire, greeting: Whereas we lately commanded our late sheriff of Hertfordshire, that he should take Thomas Williamson, and him safely keep, so that he might have his body before us at Westminster, on next after , which was in the seventeenth year of our reign, to answer to Michael Deacon for forty-five pounds, upon promises; and whereas the said Thomas afterwards, to wit, on or about the thirty-first day of January last, was charged in the custody with a declaration in our said court before us, at the suit of the said Michael in the plea aforesaid; and whereas afterwards, to wit, in Trinity term last, the said Michael obtained judgment in our same court before us against the said Thomas, but hath not further proceeded to charge him in execution; and because the said Thomas now in our court before us hath appear-

ed and put in bail to answer the aforesaid Michael in the plea aforesaid, therefore we command you that of the taking, arresting, or imprisoning of the said Thomas Williamfon by reason aforesaid, you altogether supersede, and if the same Thomas on the said occasion, and not otherwise, you have taken and in prison detained, then him from that prison without delay you cause to be delivered, and permit him to go at large, at your peril. Witness, William lord Mansfield, at Westminster, the      day of      , in the      year of our reign, LEE

GEORGE, &c. to the sheriff of M. greeting: We command you that you have the body of M. C. widow, who is detained in our prison under your custody as it is said, under safe and secure conduct, together with the day and cause of her being taken or detained, by whatsoever name the said Mary may be charged in the same, before A. B. esquire, one of our justices of our court of common bench, at his chambers, situate in Serjeant's Inn, in Chancery-lane, immediately after the receipt of this writ, to do and receive what our said justice in this cause shall then and there determine; and have you there this writ. Witness, sir John Eardley Wilmot, knight, at Westminster, the twelfth day of February, in the eighth year of our reign. *Habeas corpus ad faciendum et recipiendum in C. P.*

DICKENS.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: We command you that by our writ under the seal of our said county palatine duly to be made out, and to be directed to the sheriff of the said county palatine, you command the same sheriff that he take A. B. if he shall be found in his bailiwick, and him safely keep, so that he may have his body before us at Westminster, on      , to satisfy C. D. a debt of one hundred pounds, which the said C. D. lately in our court before us at Westminster recovered against the said A. B. as also sixty-three shillings which in our said court before us at Westminster were adjudged to the said C. D. for his damages which he sustained, as well by occasion of the detaining the said debt as for his costs and charges by him about his suit in that behalf expended, whereof the said A. B. is convicted, as appears to us of record; and have you there then this writ. Witness, &c. *Capias ad satisfaciendum into county palatine, in debt (only sealed) in K. B.*

GEORGE the Third, &c. to the sheriff of Somersetshire, greeting: We command you that you do not omit on account of any liberty within the city of Bath, or any other liberty within your county, but that you enter it and take Edward Robins if he may be found in your bailiwick, and safely keep him so that you may have his body before us at Westminster, on      , to answer

*Non omittas latitat.*

## WRITS FINAL.—ELEGIT.—JUDICIAL.

to Joseph Hill in a plea of trespass; and also to a bill of the said Joseph to be exhibited against the said Edward for forty pounds upon promise, according to the custom of our court before us; and have you there this writ. Witness William lord Mansfield, at Westminster, &c. L.E.E.

An *elegit* in K. R. GEORGE the Third, &c. to the Sheriff of Bedfordshire, greeting: Whereas Henry Justice, esquire, lately before us at Westminster, by bill without our writ, and by the judgment of the same hath recovered against Thomas Norcliffe, at another time called Thomas Norcliffe, of Aspley Gade in the county of Bedford, esquire, three hundred and forty pounds debts, and fifty-three shillings for his damages which he hath sustained, as well by the detention of that debt as for his expences and costs by him laid out in and about the suit in that behalf, whereof the said T. N. is convicted, as it appears to us of record; and because the aforesaid Henry Justice came into our court before us according to the form of the statute in this case made and provided, and hath elected to have delivered to him all the goods and chattels of the said Thomas (except the oxen and beasts of the plough), and likewise a moiety of all and singular the lands and tenements of the said T. in your bailiwick, to hold to him the said goods and chattels as his proper goods and chattels, and also to hold the said moiety to him and his assigns as his free tenement, according to the form of the statute, until the debt and damages aforesaid shall be thereof fully levied; wherefore we command you that all the goods and chattels of the aforesaid T. in your bailiwick (except the oxen and beast of the plough), and likewise the moiety of all the lands and tenements of the aforesaid T. in your bailiwick, of which the aforesaid T. on next after , in the sixth year of our reign, on which day the judgment aforesaid was obtained, or ever after was seized to the aforesaid Henry, without delay you cause to be delivered by reasonable value and extent the goods and chattels; and also to hold a moiety of the lands and tenements as his own free tenements to him and his assigns, according to the form of the statute aforesaid, until the debt and damages aforesaid shall be thereof levied; and in what manner you execute this our writ certify to us at Westminster, on next after , under your seal and the seals of them by whose oath you shall make that extent and appraisement; and have you there this writ. Witness William lord Mansfield, at Westminster, the day of , in the year of our reign. V. N. R. S.

*Superfideas for want of declaring in K. B.*

GEORGE the Third, &c. to the Sheriff of Hertfordshire, greeting: Whereas we lately commanded you by our writ that you should take Joseph Clemant if he should be found in your bailiwick, and him lately keep, so that you might have his body before us at Westminster, on , in the fourth year of our reign,

to answer to Charles Harding in a plea of trespass; and because the aforesaid Joseph hath remained in our prison under your custody until this time by virtue of our said writ without any prosecution by the said Charles against the said Joseph on the aforesaid writ; and because the aforesaid J. came into our court before us, and hath put in common bail to answer the said Charles of the plea aforesaid, according to the course of the same court before us, therefore we command you that you entirely cease from the further taking, arresting, attaching, or in any wise molesting him on that account; and if you have taken him on that account, and not on any other, then him the said Joseph from the prison whereby he is detained, if he is detained on that account and not on any other account, you cause him to be delivered without delay, at your peril. Witness William lord Mansfield, at Westminster, the day of , in the year of our reign.

LEE.

GEORGE the Third, &c.: And also that the aforesaid C. may answer to the said G. according to the custom of our court, in a certain plea of debt upon demand for two hundred pounds; and whereupon our sheriff of Hertfordshire returned to our justices at Westminster, at a certain day now past, that the said defendants are not found in his bailiwick, whereas it is testified in our same court that they lurk up and down, and secrete themselves in your county; and have you there, &c.

GEORGE the Third, &c. to the reverend father in God Richard, by divine providence, bishop of Durham, or to his deputy there, greeting: Whereas we lately commanded our chancellor of our county palatine of Lancaster that by our writ under the seal of our said county palatine in due manner to be made out, and to be directed to the sheriff of our said county palatine of Lancaster, he should command the same sheriff that he should cause to be made of the goods and chattels of Richard Walker in his bailiwick fifty pounds, which Serjeant Boardman lately in our court before us recovered against him for his damages which he hath sustained, as well by reason of the not performing of certain promises and undertakings made by him the said Richard Walker to the said Serjeant, as for his costs and charges laid out by him about his suit in that behalf, whereof the said Richard Walker is convicted, as appears to us of record; and that he should have that money before us in our same court at a certain day now past, to render to the said Serjeant for his damages aforesaid, and our said chancellor of our said county palatine of Lancaster at that day returned to us, that the said sheriff in answer to the said writ to him directed had returned to him our said chancellor that the said Richard Walker had no goods or chattels in his bailiwick upon which he could cause to be levied the damages aforesaid; whereupon on the be-

half of the said Serjeant it is sufficiently attested in our court before us that the said Richard Walker hath goods and chattels sufficient in your bishoprick whereof you may cause the said monies to be made; therefore we command you that by our writ under the seal of our said bishoprick duly to be made out, and to be directed to the sheriff of the said county, you command the said sheriff that of the goods and chattels of Richard Walker in his bailiwick he cause to be made the said fifty pounds; and that he have that money before us at Westminster on Monday next after the morrow of All Souls, to render to the said Serjeant for his damages aforesaid; and have you there then this writ. Witness William lord Mansfield, at Westminster, &c.

LEE.

Writ of possession on a double demise into a county palatine in ejectment.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: Whereas John Den lately in our court before us at Westminster by our writ, and by the judgment of the same court recovered against the said Richard Fenn, late of Lancaster in the said county, yeoman, his term yet to come of and in two messuages, two cottages, two barns, two stables, two orchards, two gardens, ten acres of land, ten acres of meadow, ten acres of pasture, with the appurtenances, in Middle Wilton in the said county of Lancaster, which James Rithwell, on the first day of September, in the year of Our Lord 1766, demised to the said John for a term which is not yet expired, to wit, from the twenty-eighth day of August then last past, for and during, and unto the full end and term of three years from thence next ensuing, and fully to be complete and ended; by virtue of which demise, &c.; and also his term yet to come of and in two other messuages, two other cottages, two other barns, two other stables, two other orchards, two other gardens, ten other acres of land, ten other acres of meadow, and ten other acres of pasture, with the appurtenances, in Middle Hilton aforesaid, which Edward Parker, gentleman, on the tenth day of January, in the year of Our Lord 1767, demised to the said John for a term which is not yet expired, to wit, from the ninth day of the said month of January, for and during, and unto the full end and term of then next following, and fully to be complete and ended; by virtue of which said last-mentioned demise the said John entered into the said last-mentioned tenements, with the appurtenances, respectively demised to him as aforesaid, and was possessed thereof until the said Richard afterwards, that is to say, on the eleventh day of January, in the year of Our Lord 1767, with force and arms entered into the several tenements, with the appurtenances, respectively demised to the said John in manner aforesaid for the several terms aforesaid, which are not yet expired, and ejected the said John from his several farms whereof the said Richard is convicted, as appears to us of record; therefore we command you that by our writ under the seal of our said county palatine duly to be made out, and to the sheriff of the same county directed, you command

Command the same sheriff that without delay he cause the said John to have possession of his several terms aforesaid yet to come of and in the several and respective tenements aforesaid, with the appurtenances; and in what manner the said sheriff shall execute this our writ let him certify to you, so that you may make the same known to us on the morrow of All Souls, wheresoever we shall then be in England; and have you there this writ. Witness, &c.

GEORGE the Third, &c. to the sheriff of Yorkshire, greet- *A testatum en-  
bias ad satisfia-  
ciendum from  
Lancaster to  
Yorkshire, in an  
action of assump-*  
ing: Whereas we lately commanded our chancellor of our county palatine of Lancaster, that by our writ under the seal of our said county palatine duly to be made out and to be directed to the sheriff of our said county palatine he should command our said sheriff that he should take C. D. if he might be found in his bailiwick, and safely keep him so that he might have his body before us at Westminster at a certain day now past, to satisfy A. B. of one hundred pounds which the said A. B. lately in our court before us at Westminster recovered against the said C. D. for his damages which he sustained as well by means of not performing certain promises and undertakings lately made by the said C. D. to the said A. B. as for his costs and charges by him about his suit in that behalf expended, whereof the said C. D. is convicted, as appears to us of record, and our said chancellor of our said county palatine at that day returned to us that the said sheriff, in answer to the said writ to him directed, had returned that the said C. D. was not found in his bailiwick; whereupon on behalf of the said A. B. it is sufficiently attested in our court before us that the said C. D. doth secrete himself in your county; therefore we command you that you take the said C. D. if he may be found in your bailiwick, and him safely keep, so that you may have his body before us at Westminster on next after , to satisfy the said A. B. of his damages aforesaid; and have you there this writ. Witness, &c.

GEORGE the Third, &c. to the sheriff of Middlesex, greet- *Fieri facias in  
suit, in C. B.*  
ing: We command you that you cause to be made of the goods and chattels of William Moore, in your bailiwick, nineteen pounds ten shillings, which were adjudged to Hugh Bull in our court before our justices at Westminster, by the direction of our said justices, for the costs and charges which he sustained by reason of his defence in a certain plea of trespass upon the case in the same court by the aforesaid William Moore against the said Hugh Bull, according to the form of the statute in such case made and provided, whereof the said William Moore is convicted, as appears to us of record; and have you that money before our justices at Westminster from , to render to the aforesaid Hugh Bull for his damages aforesaid, whereof the said William is committed; and have you there this writ. Witness sir John Eardley Wilmot, knight, at Westminster, the day of in the year of our reign.

THIS

# WRIT.—AD QUOD DAMNUM.—JUDICIAL MITTIMUS.

Directions for  
the suing out  
proceedings in,  
and returning a  
writ of *ad quod*  
*damnum* for a  
way.

[THIS writ is in order for a grant in an old way, and to make a new one instead thereof, and observe the method of suing it out: draw the *fiat* of the writ, copy it upon double six-penny stamp paper, draw an affidavit and engross it, &c. purporting that the way intended to be made by will, as he verily believes, be as good for passengers and travellers, carts and carriages, as the present way intended to be inclosed now is; carry both the affidavit and *fiat* to the attorney or solicitor general, who keeps the affidavit and signs the *fiat*, which must be carried to the curfitor, who makes out the writ of *ad quod damnum*, which is executed by carrying it to the sheriff, who impannels a jury, makes a return, and the inquisition is carried to the quarter sessions for the county, and returned by the clerk of the peace; then file the writ, and return at the petty bag office in the Rolls, from whence you have a copy of both the writ with the return and affidavit, both which come to seventeen shillings and fourpence; the copy carry to the attorney general, he gives it to the privy council, who order a grant to be made.]

Mittimus into  
the city of Chester.

GEORGE the Third, &c. to our chamberlain of our county palatine of Chester, or to his deputy there, greeting: The tenor of a certain record which is depending in our court before us, between John Raughley, plaintiff, and Mary Martin, defendant, of a plea of trespass upon the case we send you enclosed in these presents, commanding you, that by our writ under the seal of our said county palatine duly to be made out, you cause the said record to be sent to the mayor of the said city of Chester, commanding the said mayor, that for trying the issues in the said record specified, the said mayor do command the sheriffs of the same county of Chester, and county of the same city, that they cause to come before the said mayor at a certain day and place by the said mayor to be appointed; after the said record shall be delivered to him, twelve free and lawful men of the body of the county aforesaid, and county of the same city, each of whom having ten pounds a year at the least of lands, tenements, or rents, by whom the truth of the matter in question may the better be known and inquired into, and who are in no wise of kin, either of the said John, or to the said Mary, to recognize and make a certain jury of the county between the said parties in the plea aforesaid; because as well the said John as the said Mary, between whom the variance is, have put themselves upon that jury; and lastly, that the mayor make such further process against the said jurors to be impannelled between the said parties, as according to the law and custom of the said city and county of the same city in this behalf are used and commonly made until the issues aforesaid, between the parties aforesaid, shall be fully tried, and when the verification and issues aforesaid shall have been there made and tried, then the said mayor shall send to you the said record of the plaint aforesaid, with every thing that shall then and there be done and tried before him therein,

## ORIGINAL PRÆCIPE.—FORM OF RECOVERY.

so that you have the said record before us at Westminster, and this writ at a certain day which the said mayor shall appoint to the said parties to be in our said court here to hear judgment, &c. Witness, &c.

OXFORDSHIRE, to wit, Command J. B. gentleman, that Form of a pre-  
justly and without delay he render unto R. S. esquire, three messuages, one loft, one dove-house, &c. and common of pasture for a re-  
all manner of cattle, with the appurtenances, in Melcomb and Blexham, which he claimeth at bar. covey, with a  
double voucher.

GLOVER.

After you have passed the precipe at with the Curstior, then draw the reco-  
bar, then bespeak your writ of entry very in the following manner.

Enter return on the morrow of the Ascension of Our Lord.

OXFORDSHIRE to wit. R. S. esquire, in his proper person, Record of a re-  
demandeth against J. B. gentleman, three messuages, one loft, covey sufficed.  
one dove-house, &c. and common of pasture for all manner of  
cattle, with the appurtenances, in Melcomb and Blexham, as his  
right and inheritance, and into which the said J. hath not entry  
but after the disseisin, which H. Hunt unjustly and without judg-  
ment hath made to the said R. within thirty years, &c.; and  
whereupon he saith, that he was seised in his demesne as of fee  
and right in time of peace, in time of our lord the king that now  
is, by taking the profits thereof to the value, &c. and into which,  
&c. and thereof he bringeth suit, &c. And the said P. in his pro-  
per person, comes and defends his right when, &c. and thereupon  
vouches to warranty R. P. and E. his wife, who are present  
here in court in their persons, and freely warrant the tenements  
and common aforesaid, with the appurtenances, to the said J. &c.  
and hereupon the said R. demandeth of the said R. P. and E. te-  
nants by their own warranty, the tenements and common afore-  
said, with the appurtenances, in manner aforesaid, &c. and where-  
upon he saith, that he was seised of the tenements and common  
aforesaid, with the appurtenances, in his demesne as of fee and  
right in time of peace, in the time of our lord the king that now  
is, by taking the profits thereof to the value, &c. and into which,  
&c. and thereof he bringeth suit, &c. And the said Edmund,  
tenant by his own warranty, defendeth his right when, &c. and  
saith, that the said Hugh did not disseise the said R. of the tenements  
and common aforesaid, with the appurtenances, as the said R. by  
his writ and declaration above doth suppose; and of this he puts  
himself upon the country: And hereupon the said R. craveth  
leave to imparl, and he hath it, &c.; and afterwards the said R.  
cometh again here into court this same term in his proper person,  
and the said Edmund, though solemnly called, cometh not again,  
but departeth in contempt of the court, and maketh default;  
therefore

therefore it is considered that the said R. recovereth his seisin against the said J. of the tenements and common aforesaid, with the appurtenances; and that the said J. have of the lands of the said R. P. and E. to the value, &c.; and moreover, that the said R. P. and E. have of the lands of the said Edmund to the value, &c. and that the said Edmund in mercy, &c.; and whereupon the said R. prays the king's writ to be directed to the sheriff of the county aforesaid, to cause full seisin of the tenements and common aforesaid, with the appurtenances, to be delivered to him, and it is granted to him returnable here in eight days of the Holy Trinity, &c. at which day the said E. cometh here into court in his proper person, and the sheriff, viz. M. M. esquire, now returneth, that by virtue of the said writ to him directed on the fourth day of June instant, he caused full seisin of the tenements and common aforesaid, with the appurtenances, to be delivered to the said R. as by the said writ he was commanded.

The exemplification thereof.

GEORGE the Third, &c. To all to whom these presents shall come, greeting: Know ye that among the pleas of land enrolled at Westminster, before sir John Eardley Wilmot, knight, and his brethren justices of our said lord the king of the bench in the term of Easter, in the            year of our reign, on the 398th Roll, it is thus contained: [Enter the returns on the morrow of the Ascension of Our Lord.] Oxfordshire to wit, R. S. esquire, demandeth against J. B. gentleman, three messuages, &c. [Here recite the above recovery *verbatim*], and it is granted to him returnable here in eight days of the Holy Trinity, &c. all and singular which premises at the request of the said R. by the tenor of these presents we have commanded to be exemplified, in testimony whereof we caused our seal appointed for sealing writs in the bench aforesaid to be fixed to these presents. Witness sir John Eardley Wilmot, knight, at Westminster, the first day of June, in the seventh year of our reign.

COOKE.

On label.

On which day the said R. cometh here into court in his proper person, and the sheriff, viz. M. M. esquire, now returneth, that by virtue of the said writ to him directed on the fourth day of June instant, he caused full seisin of the tenements and common aforesaid, with the appurtenances, to be delivered to the said R. as by the said writ he was commanded.

Writ of seisin.

George the Third, &c. to the sheriff of Oxfordshire, greeting: Know you that R. S. in our court before our justices at Westminster, hath recovered his seisin against J. B. gentleman, of three messuages, one loft, one dove-house, &c. and common of pasture for all manner of cattle, with the appurtenances, in Melcomb and Blexham, by our writ of entry upon disseisin in           ; therefore we command you, that without delay you cause the said R. to

# FORMS.—SUBPOENA TICKET—LETTER OF ATTORNEY.

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R. to have the full seisin of the tenements and common aforesaid, with the appurtenances, and in what manner you shall have executed this precept do you make appear before our justices at Westminster in eight days of the Holy Trinity, and have you there then this writ. Witness sir John Eardley Wilmot, knight, at Westminster, the first day of June in the seventh year of our reign.

BORRETT.

By virtue of a writ of subpoena to you directed and herewith shewn unto you, you are to be and personally appear before the sheriffs of the city of London on Wednesday the twenty-eighth day of May, at nine of the clock in the forenoon of the same day, at the Guildhall of the said city, to testify the truth according to your knowledge in a certain cause now depending between John Subon, plaintiff, and Samuel Row, defendant, in a plea of trespass upon the case on the part of the plaintiff, in which cause a writ of inquiry of damages will then and there be executed; and this you are not to omit upon pain of one hundred pounds. Dated the      day of      in the      year of our sovereign lord George the Third, &c.

A subpoena ticket on an inquiry.

[There was a rule for defendant's paying plaintiff eleven pounds for her debt and costs to be taxed. The eleven pounds was paid into court and plaintiff took it out, and then plaintiff got the costs taxed by prothonotary at thirteen pounds twelve shillings: then the plaintiff executed the following letter of attorney.]

Attachment against defendant for non-payment of costs how obtained.

MILLS }  
againſt }  
PRICE, ONE, &c. }  
} ing date the first day of this present month of May, in a cause then and there depending between Sarah Mills, widow, plaintiff, and Hugh Price, gentleman, one of the attornies of that court, defendant; it is ordered, that the defendant shall pay to plaintiff or her attorney eleven pounds, together with costs to be taxed by Mr. Prothonotary Jones, if the plaintiff will accept thereof, but if the plaintiff will not accept thereof, the defendant shall immediately bring the said eleven pounds into this court and plead the general issue, and if upon the trial of the issue between the said parties the plaintiff shall become nonsuit and the jury shall not assess damages to the plaintiff exceeding the said eleven pounds, then the plaintiff shall have no costs but shall pay to the defendant or his agent costs to be taxed by the said prothonotary, which costs shall be paid out of the money so brought into court, if sufficient for that purpose, and the residue, if any, shall be paid to the plaintiff; but if the money so brought here into court be not sufficient to pay the said costs, the deficiencies shall be made good by the plaintiff; but if upon trial of the issue the jury

Power of attorney.

## WRITS ORIGINAL—PRÆCIPE—TEST. PRÆCIPE.

jury shall assess damages to plaintiff exceeding the said eleven pounds, then judgment shall be entered for the plaintiff upon the verdict with costs; and the said plaintiff shall have the said eleven pounds out of court towards satisfaction of such damages, and may take out execution for the residue: And whereas afterwards, the said eleven pounds mentioned in the said rule or order were paid to and accepted by the said plaintiff, and on the twenty-first day of the same month of May the said plaintiffs costs in the said action were taxed and allowed by the said prothonotary at the sum of thirteen pounds twelve shillings: Now these presents witness that the said Sarah Mills doth hereby make, constitute, authorize, and appoint John Varley of, &c. to be her true and lawful attorney for her, and in her name to ask, demand, recover, and receive of the said H. P. the said sum of thirteen pounds twelve shillings, and on receipt thereof, in the name of the said Sarah Mills, or of him the said John Varley, to give, seal, and execute any such releases, acquittances, or other discharges as he the said John Varley shall think proper, and generally to do and execute all such acts, matters, and things, as well for receiving as for releasing the said costs, as shall be proper, requisite, or necessary: And she the said Sarah Mills doth hereby ratify and confirm all and whatsoever her said attorney shall lawfully do or cause to be done by virtue of these presents. In witness, &c.

*Præcipe quod reddat in deb.*

GEORGE the Third, to the sheriff of Middlesex, greeting: We command you that you take William Berrell and Thomas Green, late of Charlotte-street in Saint James, if they shall be found in your bailiwick, and them safely keep so that you may have their bodies before us on the morrow of All Souls, where-soever we shall be in England, to answer to Thomas Rawstone in one hundred pounds which he owes and unjustly detains as it is said; and have there this writ. Witness William lord Mansfield, at Westminster, the twenty-second day of June, in the eighth year of our reign.

ADAMS.

*Test. præcipe quod reddat in deb. by original into Cornwall.*

GEORGE the Third, &c. to the sheriff of Cornwall, greeting: We command you, that you take John Weston, of Freetown, gambler in your county, gentleman, if he shall be found in your bailiwick, and him safely keep, so that you may have him before us on the morrow of All Souls, where-soever we shall then be in England, to answer Peter Tubors in a plea that he render to the said Peter two hundred and eighty-five pounds, which he owes to and unjustly detains as it is said, and for that our sheriff of Middlesex returned to us at a certain day now past that the said John is not found in his bailiwick, whereupon on the behalf of the said Peter it is sufficiently attested in our court before us, that the said John does run up and down and secrete himself in your county, and have there this writ. Witness William lord Mansfield at Westminster,

# WRITS FINAL.—WRITS OF ENQUIRY.—CA. SA.

255

Westminster, the twenty-second day of June, in the eighth year  
of our reign. ADAM.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: Whereas A. B. lately in our court before us at Westminster, by bill without our writ impleaded, C. D. gentleman, being in the custody of E. T. esquire, sheriff of our said county palatine of Lancaster: For that whereas, &c. [Here recite declaration, and conclude as in writs of enquiry]

Writ of inquiry into county palatine against a prisoner.

GEORGE the Third, &c. to the sheriff of Hertfordshire, greeting: Put under sureties and safe pledges Frederick Halsey, that he be before our justices at Westminster, from the day of Easter in fifteen days, to answer James Bedford of a plea, wherefore he took the goods and chattels of the said James Bedford, and unjustly detained them against sureties and pledges as it is said; and to shew wherefore he hath not appeared in our court before our justices at Westminster, in days of last past, that being the day prefixed to them; and have you there the names of the pledges and this writ. Witness sir John Eardley Wilmot, knight, at Westminster, the day of in the year of our reign. BOYCOTT.

A. pone in replevin in C. P.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: We command you, that by our writ under the seal of our said county palatine, duly to be made out and to be directed to the sheriff of the same county, you command the same sheriff that he take C. D. if he be found in his bailiwick, and safely keep him so that you may have his body before us at Westminster, on next after to satisfy unto A. B. of two thousand pounds of debt which the said A. B. lately in our court before us recovered against him; and also sixty-three shillings which were adjudged to the said A. B. in our said court before us for his damages which he sustained as well by means of detaining the said debt as for his costs and charges by him about his suit in that behalf expended; whereof the said C. D. was convicted, as appears to us of record; and have you there, &c.

Capit. ad satisfaciendum into a county palatine in debt.

GEORGE the Third, &c. to the sheriff of Cornwall, greeting: Whereas Moses Yates, &c. of in your county, labourer, was attached to appear in our court before our justices at Westminster, to answer Lee Warner, esquire, in a plea wherefore the said Moses on the first day of in the year of Our Lord 1762, and on divers other days and times between that day and

Writ of inquiry in replevin in C. B.

# WRITS FINAL.—CA. SA.

and the day of , in the year of Our Lord 1763, with force and arms, &c. at aforesaid. [And so on to the end of the declaration and other writs of enquiry.]

*Writ ad satisfaciendum into a county palatine & debt.*

GEORGE the Third, to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: We command you, that by our writ under the seal of our said county palatine, duly to be made out and to be directed to the sheriff of the same county, you command the same sheriff that he take C. D. late of in the said county palatine of Lancaster, yeman, if he shall be found in his bailiwick, and him safely keep so that you may have his body before our justices at Westminster, from the day of in days, to satisfy A. B. as well of a certain debt of one hundred pounds, which the said A. B. in our court before our justices at Westminster recovered against him as of pounds which to the said A. B. in our said court were adjudged for his damages which he had sustained on account of the detaining that debt whereof he is convicted; and thereupon our sheriff of hath certified to our justices at Westminster at a certain day now past that the said C. D. is not found in his bailiwick; whereupon it is witnessed in our said court that the said C. D. lurks, lies hid, and wanders in the said county palatine; and have you there this writ. Witness sir John Hardley Wilmot, knight, at Westminster, the day of in the year of our reign, DORRETT.

*Writ ad satisfaciendum in debt.*

GEORGE the Third, &c. to the sheriff of , greeting: We command you, that you take C. D. if he may be found in your bailiwick, and keep him safely so that you may have his body before us at Westminster on next after , to satisfy A. B. of two hundred pounds of debt which the said A. B. lately in our court before us recovered against him, as also seventy three pounds which were adjudged to the said A. B. in our said court before us for his damages which he sustained as well by means of detaining the said debt, as for his costs and charges by him about his suit in that behalf expended, whereof the said C. D. is convicted, as appears to us of record; and have you then there this writ, Witness, &c.

*Writ ad satisfaciendum in case into a county palatine in B. R.*

GEORGE the Third, &c. to our chancellor of our county palatine, or to his deputy there, greeting: We command you, that by our writ under the seal of our said county palatine, duly to be made out and to be directed to the sheriff of the same county, [If into the city of Chester, say, "to be directed to the sheriffs of the city of Chester,] you command the same sheriff that he take C. D. if he may be found in his bailiwick, and keep him so that he may have his body before us at Westminster on next after to satisfy A. B. of which the said A. B. lately in



WRITS FINAL.—CA. SA.—FI. FA.—

whereupon on the behalf of the said A. B. it is sufficiently attested in our said court before us, that the said C. D. doth lurk and secrete himself in your bailiwick; we therefore command you, that you take him if he may be found in your bailiwick, and keep him safe so that you may have his body before us at Westminster on next after to satisfy the said A. B. of the damages aforesaid; and have there then this writ. Witness, &c.

LEE.

*Tellatum capias  
ad satisfaciendum  
in original in  
debt in B. R.*

GEORGE the Third, &c. to the sheriff of Yorkshire, greeting: Whereas we lately commanded our sheriffs of London that they should take C. D. late of in your county, grocer, if he might be found in his bailiwick, and safely keep him so that they might have his body before us wheresoever we should then be in England at a certain day now past, to satisfy A. B. esquire, of one hundred pounds of debt which the said A. B. lately in our court before us at Westminster recovered against him, as also twenty-eight pounds which were adjudged to the said A. B. in our said court before us, as well by means of the detaining the said debt as for his costs and charges by him about his suit in that behalf expended, whereof C. D. is convicted, as appears to us of record; and our said sheriffs of London at that day returned to us, that the said C. D. was not found in their bailiwick; whereupon on the behalf of the said A. B. it was sufficiently attested in our court before us that the said C. D. doth lurk and secrete himself in your county; therefore we command you, that you take him if he may be found in your bailiwick, and keep him safe so that you may have his body before us on next after wheresoever we shall then be in England, to satisfy the said A. B. of the debt and damages aforesaid, and have you there this writ. Witness William lord Mansfield. L. and A.

*Fieri facias in  
debt in B. R.*

GEORGE the Third, &c. to the sheriff of Kent, greeting: We command you, that of the goods and chattels of C. D. in your bailiwick, you cause to be made pounds which A. B. lately in our court before us at Westminster recovered against him of debt, and also sixty-three shillings which to the said A. B. in our court before us were adjudged for his damages which he sustained, as well on occasion of detaining that debt as for his costs and charges by him about his suit in that behalf laid out, whereof the said C. D. is convicted, as appears to us of record; and that you have that money before us at Westminster on next after to render to the said A. B. for his debt and damages, and have you then there this writ. Witness William lord Mansfield at Westminster, the day of in the year of our reign.

LEE and ANTONIE.

GEORGE

GEORGE the Third, &c. to our chancellor of our city palatine of Lancaster, or to his deputy there, greeting: We command you, that your writ under the seal of our said county palatine, duly to be made out and to be directed to the sheriff of the same county, you command the same sheriff that he cause to be made of the goods and chattels in his bailiwick of C. D. late of in the said county palatine of Lancaster, collier, as well a certain debt of one hundred pounds which A. B. gentleman, in our court before our justices at Westminster hath recovered against him, as also thirty-six pounds which to the said A. B. in our same court were awarded for his damages which he sustained; as well by means of detaining the said debt as for his costs and charges by him about his suit in that behalf expended, whereof the said C. D. is convicted, as appears to us of record; and that he have the money before our justices at Westminster on to render to the said A. B. for the debt and damages aforesaid; and whereupon our sheriffs of London have certified to our justices at Westminster at a certain day now past, that the said C. D. hath no goods or chattels in their bailiwick, whereof they can cause to be made the debt and damages aforesaid, or any part thereof; whereas it is testified in our said court that the said C. B. hath sufficient goods and chattels in our said county palatine, whereof the debt and damages may be levied; and have there then this writ.

Witness, &c. Testatum fieri facias into a county palatine in debt.

DICKINS.

GEORGE the Third, &c. to the sheriff of greeting: Whereas we lately commanded our sheriffs of London, that of the goods and chattels in your bailiwick, of C. D. of your county, grocer, they should cause to be made one hundred pounds, which A. B. esquire, lately in our court before us at Westminster recovered against him for debt, and also twenty-eight pounds which he the said A. B. lately in our said court before us were adjudged for his damages which he had sustained, as well by reason of the detaining the said debt, as for his costs and charges by him about his suit in that behalf expended, whereof the said C. D. is convicted, as appears to us of record; and that they should have that money before us wheresoever we should then be in England at a certain day now past, to render to the said A. B. for his debt and damages aforesaid, and our said sheriffs of London at that day returned to us, that the said C. D. had no goods or chattels in their bailiwick whereof they could cause to be made that money; whereupon on the behalf of the said A. B. it is sufficiently attested in our court before us that the said C. D. hath goods and chattels sufficient in their bailiwick whereof you may cause to be made the same money; therefore we command you, that of the goods and chattels of the said C. D. in your bailiwick you cause to be made the said one hundred pounds of debt, and twenty-eight pounds the damages aforesaid, and have that money before us on wheresoever we shall then be in England,

to

## WRITS FINAL.—ELEGIT—TEST. FI. FA.—

to render to the said A. B. for his debt and damages aforesaid\* and have you there this writ. Witncfs William lord Mansfield L. and A.

*Elegit in debt.*

GEORGE the Third, &c. to the sheriff of York, greeting: Whereas A. B. lately in our court before us at Westminster, by bill without our writ, and by the judgment of the same court, recovered against C. D. one hundred pounds of debt, and also forty pounds for his damages which he sustained, as well by means of detaining the said debt, as for his costs and charges by him about his suit in that behalf expended, whereof the said C. D. was convicted, as appears to us of record; and afterwards the said A. B. came into court before us, and chose all the goods and chattels of the said C. D. except the oxen and beasts of his plough, and also a moiety of all and singular the lands and tenements of the said C. D. in your bailiwick, to be delivered to him according to the form of the statute in that case made and provided, until the said debt and damages should be thereupon fully levied; we therefore command you, that all the goods and chattels of the said C. D. in your bailiwick, except the oxen and beast of his plough, and also a moiety of lands and tenements of the said C. D. in your bailiwick, whereof the said C. D. on the      day of      on which day the said judgment was given, or ever after was seized, you cause to be delivered without delay to the said A. B. by a reasonable price and extent to hold the said goods and chattels as his proper goods and chattels, and also to hold the moiety of the said lands and tenements as his free tenements to him and his assigns, according to the term of the said statute, until the debt and damages aforesaid shall thereof be fully levied, and that you make appear to us at Westminster on      next after      under the seal and the seals of those by whose oath you shall make the said extent and appraisement in what manner you shall have executed this our writ; and that you have then there this writ. Witncfs, &c.

*testatum fieri  
scias into a  
county palatine  
dower in C. B.*

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: We command you, that by our writ under the seal of our said county palatine, duly to be made out and to be directed to the sheriff of the said county, you command the same sheriff that he cause to be levied of the goods and chattels of C. D.      pounds, which to A. B. widow, who was the wife of E. B. in our court before our justices at Westminster were adjudged for her damages which she sustained, as well on account of the detention of her dower, as for her costs and charges by her about her suit in that behalf laid out; and that he have that money before our justices at Westminster on      to render to the said A. B. for her damages, costs, and charges aforesaid, whereupon the said C. D. is convicted, as appears to us of record; and whereupon our she-  
riff

Sherriff of Yorkshire hath certified to our justices at Westminster at a certain day now past, that the said C. D. hath no goods and chattels in his bailiwick whereof he can cause to be levied the damages, costs, and charges aforesaid, or any part thereof; whereas it is testified in our said court that the said C. D. hath sufficient goods and chattels in our said county palatine whereof the damages, costs, and charges aforesaid may be levied; and have you there this writ. Witness sir John Eardley Wilmot, knight, at Westminster, the            day of            in the            year of our reign. DORRETT.

GEORGE the Third, &c. to the sheriff of York, greeting: Writ of possession in an action of ejectment in C. B.  
Whereas A. B. lately in our court before our justices at Westminster, by the course of the same court recovered his term yet to come of and in two messuages, &c. [Here recite the parcels as in the declaration,] with the appurtenances, in            in your county, against C. D. late of            in your county, husbandman, which E. T. the            day of            in the            year of our reign had demised to the said A. B. to have and to hold the said tenements, with the appurtenances, to him and his assigns, from the            day of            then last past, until the full end and term of            years from thenceforth next ensuing, and fully to be complete and ended, which is not yet expired; whereupon the said C. D. him the said A. B. from his possession thereof hath expelled and removed, and the same A. B. from his farm aforesaid hath ejected; therefore we command you, that without delay you cause the said A. B. to have his possession of his farm aforesaid yet to come of and in his said tenements aforesaid, with the appurtenances, and in what manner you shall have executed this our writ, do you make appear to our justices at Westminster, from the            day of            in            days; and have you then there this writ. Witness sir John Eardley Wilmot, knight, at Westminster, the            day of            in the            year of our reign. BORRETT.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: Writ of possession into a county palatine in an action of ejectment in B. R.  
Whereas A. B. lately in our court before us at Westminster, by bill without our writ, and by the judgment of the same court, recovered against C. D. his term yet to come of and in the            messuages, B. R. [Here insert the parcels in the declaration] with the appurtenances, situate, lying, and being in            in the said county of Lancaster, which E. F. on the            day of            in the            year of our reign demised to the said A. B. for a term of years not yet expired, to wit, from the            day of            then last past, to the full end and term of            years from thence next ensuing, and fully to be complete and ended; by virtue of which said demise the said A. B. entered upon the same tenements, with

WRITS FINAL.—OF POSSESSION IN

LEE.

and, surrender of pre-  
mise, on a writ  
of possession in  
electment.

Writ of possession in an action of ejectment on a double dem in C. B.

# EJECTMENT—AND TEST. FI. FA.—

A. B. from his possession thereof did expel and remove, and the same A. B. from his farms aforesaid did eject; therefore we command you, that without delay you cause the said A. B. to have his possession of his several terms aforesaid yet to come of and in the several and respective tenements aforesaid, with the appurtenances, and in what manner you shall execute this our writ do you make appear to our justices at Westminster, from the      day of      in      days; and have there then this writ. Witness  
 fir John Eardley Wilmot, knight, at Westminster

DICKINS.

GEORGE the Third, &c. to the sheriff of      greeting: Writ of possession in B. R. in an action of ejectment.  
 Whereas A. B. lately in our court before us at Westminster, by bill without our writ, and by the judgment of the same court, recovered against C. D. his term yet to come of and in, &c. with the appurtenances, situate, lying, and being in      in your county, which the said E. F. on the      day of      in the year of our reign demised to the said A. B. for a term of years not yet expired, to wit, from the      day of      then last past, to the full end and term of      years from thence next ensuing, and fully to be complete and ended; by virtue of which demise the said A. B. entered upon the same tenements, with the appurtenances, and was thereof possessed until the said C. D. afterwards, to wit, on the same      day of      in the      year aforesaid, with force and arms, entered into the said tenements, with the appurtenances, in and upon the possession of him the said A. B. and ejected, drove out, and moved him the said A. B. from his said farm, his said term being not yet expired, and him the said A. B. so ejected, driven out, and removed, hath kept out, and doth yet keep out from his possession thereof, whereof the said C. D. is convicted, as appears to us of record; therefore we command you, that without delay you cause the said A. B. to have his possession of his term aforesaid yet to come of and in the tenements aforesaid, with the appurtenances, and in what manner you shall execute this our writ do you make appear to us at Westminster, on      next after      and have you then there this writ. Witness  
 William lord Mansfield at Westminster the      day of      in the      year of our reign. LEE.

GEORGE the Third, &c. to the sheriff of Essex, greeting: *Tisatum fieri debet*  
 Whereas we lately commanded our sheriff of Wilts, that he should *as in K. B.*  
 cause to be made of the goods and chattels of Richard Cox in his bailiwick twenty pounds, which Richard Wraxell lately in our court before us at Westminster recovered against him for his damages which he hath sustained, as well by occasion of the not performing of certain promises and assumptions by him the said Richard Cox, to the said Richard Wraxell, as for his costs and charges laid out by him about his suit in that behalf expended,  
 S 4      whereof

FL. FA.—ALIAS CA. AD. RESP.—WRITS—SUPERSEDEAS—

whereof the said R. C. is convicted, as appears to us of record ;  
and that he should have the money before us at Westminster at a  
certain day now past, to render to the said R. W. for his damages  
aforesaid, and our said sheriff of Wilts at that day returned to us,  
that the said R. C. had not any goods or chattels in his bailiwick  
whereof he could cause to be made the said monies, whereupon on  
the behalf of the said R. W. it is sufficiently testified in our court  
before us, that the said Richard Cox hath goods and chattels sufficient  
within your bailiwick where you may cause the said monies to be  
made; therefore we command you, that of the goods and chattels  
of the said Richard Cox in your bailiwick you cause to be made the  
said twenty pounds for his damages aforesaid ; and that you have  
that money in our same court before us on                next after  
to render to the aforesaid Richard Wraxell ; and  
have you there this writ.     Witness William lord Mansfield.

LEE.

\* *Fieri facias* in an  
action for words.

GEORGE the Third, &c. to the sheriff of Cornwall, greeting: We command you, that of the goods and chattels of Peter Spargo, late of the parish of        in your county, you cause to be made twenty seven pounds, which to Thomas Lugmore in our court before our justices at Westminster were adjudged for his damages which he had by reason of the speaking and publishing certain scandalous words by the said Peter to the said Thomas at Penryn in your county sustained; and have you that money before our justices at Westminster, on the        to render to the said Thomas for his damages aforesaid; whereof he the said Peter is convicted; and have you there then this writ. Witness fir John Hardley Willmot, &c.

alias capias ad  
espondendum into  
county pala-  
ine.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: We command you, as formerly we have commanded you, that by our writ under the seal of our said county palatine, duly to be made out and to be directed to the sheriff of the same county, you command the same sheriff that he take, &c.

imperfected into  
a county pala-  
ine for want of  
teolaring.

GEORGE the Third, &c. to our chancellor, &c. or to his deputy there, greeting: Whereas we lately commanded you, that by our writ under the seal of our said county palatine, duly to be made out and to be directed to the sheriff of the same county, you should command the same sheriff that he should take C. D. if he might be found in his bailiwick, and safely keep him so that he might have his body before us at Westminster on      next after  
last past, to answer to A. B. in a plea of trespass; and also to a bill of the said A. B. against the said C. D. for one hundred and twenty pounds on promises, according to custom of our court before

us to be exhibited; and because the said A. B. hath not declared against him the said C. D. within two terms; and the same C. D. in our same court before us come and put in common bail to answer to the said A. B. of the plea and bill aforesaid, according to the course of our same court; therefore we command you, that by our writ under the seal of our said county palatine, duly to be made out and directed to the sheriff of the same county, you command the same sheriff that he altogether desist from further taking, attacking, imprisoning, and molesting him the said C. D. on that account, and if on that account, and no other occasion, he has taken him and does now detain him in prison, then without delay he cause the said C. D. to be discharged out of the prison in which he is so detained at his peril. Witness William lord Mansfield at Westminster the      day of      in the      year of our reign.

L. and A.

GEORGE the Third, &c. to the sheriff of      greeting: *Sup. sed. for*  
Whereas A. B. late of      is detained in our prison under your not proceeding  
custody by virtue of our writ returnable before our justices at      to judgment.  
Westminster in      days from      to answer C. D. of a plea of  
trespass, and also of a plea of trespass on the case to the damage of  
the said C. D. of forty pounds, and on the      day of      1764,  
was charged with a declaration at the suit of the said C. D. in the  
plea aforesaid; and for that it appeareth to our said justices that  
the said C. D. hath not proceeded to judgment in due time against  
the said A. B. in the said cause, according to the rules and orders of  
our said court, and because the said A. B. hath appeared in our  
said court by E. P. his attorney in the cause aforesaid; therefore  
we command you, that if the said A. is detained in our prison under  
your custody on that account and no other, then you do permit  
him to go at large upon the peril which shall attend the neglect  
thereof. Witness      at Westminster, and so forth.

GEORGE the Third, &c. to our chancellor of our county *T. B. as an*  
palatine of Lancaster, or to his deputy there, greeting: *com. into a county*  
mand you, that by our writ under the seal of our said county pa-  
latine, duly to be made out and to be directed to the sheriff of the  
same county, you command the same sheriff that he take A. B.  
late of      in the county palatine of Lancaster, chapman and  
Richard Roe, if they shall be found in his bailiwick, and them  
safely keep, so that he may have their bodies before our justices at  
Westminster, from the      day of      in      to answer C. D.  
of a plea, wherefore with force and arms the close of the said C. D.  
at      they broke and other things then and there did, to the great  
damage of the said C. D. and against our peace; and also that the  
said A. B. may answer the said C. D. according to the custom of  
our court of      C. B. in a certain plea of trespass upon the case upon  
promises to the damage of the said C. D. of twenty pounds, where-  
upon

upon our sheriff of the county of York hath certified to our justices at Westminster, at a certain day now past, that the said A. B. and R. R. are not to be found in his bailiwick, whereas it is witnessed in our said court, that the said A. B. and R. lurk, lye hid, and wander in the said county palatine; and have you there then this writ. Witness, &c.

*Non omittas latit.*

GEORGE the Third, &c. to the sheriff of Kent, greeting: We command you, that you do not omit, by reason of any liberty within your county, but that you enter the same, and take A. B. and Richard Roe, if they shall be found in your bailiwick, and keep them safe, so that you may have their bodies before us at Westminster, on to answer C. D. in a plea of trespass; and also to a bill, &c. to be exhibited, &c. and that you have there then this writ. Witness William lord Mansfield at Westminster, the day of in the year of our reign. LEE.

(a) Attachment of contempt against an attorney.

GEORGE the Third, &c. to the sheriffs of York, greeting: We command you, that you attach C. D. gentleman, one of the attorneys of our court of the bench, so that you may have his body before our justices at Westminster, on next after to answer us of and upon those things which to him in our behalf shall then be objected; and have you there then this writ. Witness William lord Mansfield at Westminster, &c. BARRETT.

(a) Indorsed for non payment to and pounds, by rule of court.  
A. B. of the several sums of pounds Signed

Writ of mittimus to the county palatine of Lancaster.

GEORGE the Third, &c. to our justices of our county palatine of Lancaster, greeting: The tenore of a certain record before us at Westminster, between A. B. plaintiff, and C. D. defendant, in a plea of debt, we send you inclosed herein, commanding that you (having inspected the same by your writ of our said county palatine, do command the sheriff of the same county, that he cause twelve free and lawful men of the body of the said county palatine to come before you at your next sessions there to be holden after this writ shall be delivered to you and each of whom to have ten pounds per annum, at the least, of lands, tenements, or rents, by whom the truth of the matter may the better be known and inquired into, and who are in no wise related either to the said A. B. or to the said C. D. to recognize and make a certain jury of the county between the said parties in the plea aforesaid, because as well the said C. D. as the said A. B. between whom the controversy is, have put themselves upon that jury; and also that you make such further process against the said jurors to be impanelled between the said parties as are in this behalf used and commonly made, according to the use and custom of the said county palatine until

until the issue aforesaid between the said parties shall be fully tried; and when the verification and issue aforesaid shall be there made and tried before you, then do you send the record of the plaint aforesaid, together with every thing that shall then and there be done before you therein; and also this writ to us at Westminster at a certain day at which you shall appoint to the said parties to be there to hear judgment thereupon, &c. Witness William lord Mansfield at Westminster the      day of      in the      year of our reign.

LEE.

[If it is a mittimus for a view, when you come at (until the issue between the said parties shall be fully tried) then add this]:

And that in the writ of *habeas corpora juratorum* to be issued by you in this cause, there be contained a clause commanding the sheriff of the said county to have six or more of the first twelve jurors so to be impanelled and returned, who shall be mutually consented to by the said A. B. and also by the said C. D. or their agent, at the place in question before the time of trial of the said issue, to wit, on the      day of      next ensuing, and that L. M. on the part of the said A. B. and N. O. on the part of the said C. D. shall attend the same day and shew the matters in question to the said six or more of the first twelve jurors, to be consented to as aforesaid; and when the verification and issue aforesaid shall be there made and tried, and the damages aforesaid shall be there, then do you send the record of the plaint aforesaid, together with every thing that shall be then and there done before thereupon, and also this writ to us at Westminster at a certain day which you shall appoint to the said parties to be there to hear judgment thereupon. Witness, &c.

STORMONT and WAY.

GEORGE the Third, &c. to our sheriff of Cumberland, <sup>Writ of inquiry</sup> greeting: [If by original, say, whereas A. B. late of W. in <sup>in an action</sup> your county was attached to answer C. D. of a plea, that whereas] <sup>of assumpsit.</sup> Whereas A. B. lately in our court before us at Westminster, by bill without our writ, impleaded C. D. being in the custody of the marshal of our marshal's court before us; for that whereas, &c. &c. [Set out all the pleadings] to the damage of the said A. B. of ten pounds, as it was said, and in such manner in our same court before us it is proceeded, that the aforesaid A. B. ought to recover his damages against the said C. D. by occasion [Here insert declaration] of the [If in trespass, trover, or assumpsit, &c. say, by occasion of the premises] not performing the said several promises and undertakings aforesaid, but because it is unknown in our said court before us what damages the said A. B. hath sustained by the occasion aforesaid; therefore we command you, that by the oath of twelve good and lawful men of your bailiwick, you diligently inquire what damages the said A. B. hath sustained, as well by means of the [premises] not performing the several promises and undertakings aforesaid,

## WRITS FINAL.—WRIT OF ENQUIRY.—ELEGIT—

aforesaid, as for his costs and charges by him about his suit in that behalf laid out, and make appear to us at Westminster [If by original say, to us on the of wherefoever we shall then be in England] on next after , and the inquisition which you shall thereupon take under the seal and the seals of those by whose oath you shall take such inquisition; and have you there then this writ. Witness, &c. STORMONT and WAX.

Writ of inquiry  
in an action  
of trespass  
into a county  
palatine.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster, or his deputy there, greeting: Whereas A. B. lately in our court before us at Westminster, by bill without our writ impleaded C. D. being in the custody of the marshal of the marshalsea before us; for that whereas [So to the end of the declaration] to the damage of the said A. B. of twenty pounds, as it is said, and in such manner in our said court before us it is proceeded, that the aforesaid A. B. ought to recover his damages against the said C. D. [If in trespass, trover, or assault, &c. say, by occasion of the premises] by occasion of the not-performing the several promises and undertakings aforesaid, but because it is unknown in our said court before us what damages the said A. B. hath sustained by the occasion aforesaid; therefore we command you, that by our writ under the seal of our said county palatine, duly to be made out, and to the sheriff of our said county palatine to be directed, you command the said sheriff that by the oath of twelve honest and lawful men of his bailiwick, he diligently inquire what damages the said A. B. hath sustained, as well by the occasion aforesaid, as for his costs and charges by him about his suit in that behalf laid out and sustained, and the inquisition which he thereof shall take do you make appear to us at Westminster, on next after under his seal and the seals of those by whose oath he shall take such inquisition; and have you then there this writ. Witness, &c. STORMONT and WAX.

1) *Elegit*, writ  
of execution,  
and observations  
thereon.

GEORGE, &c. greeting: Whereas A. B. in your county before our justices at Lancaster, to wit, at the session of assizes there held on the day of in the year of our reign before one, &c. at Westminster, and one other, &c. at Westminster, then our justices at Lancaster by consideration of the same court recovered against C. D. late of, &c. in your county, as well a certain debt of pounds, as which to the said A. B. in our same court were adjudged for his damages which he had by

(a) *Elegit* is a writ of execution that lies for him that hath recovered debt or damages, or upon a recognizance in any court against one not able in his goods to satisfy the same. directed to the sheriff, commanding him to make delivery of a moiety of the party's lands and all his goods (beasts of the plough except-

ed) and the creditors shall hold the said moiety of the land until his whole debt and damages are paid and satisfied, and during that term he is tenant by *elegit*.

This writ ought to be sued out within a year and a day of the judgment. Vide West. 2. cap. 18; and 32. Henry 8. cap. 5.

occ<sup>n</sup> sion

occasion of the detention of that debt, whereof the said C. D. is convicted; and afterwards the aforesaid A. B. into our same court, and by virtue of the statute in such case made and provided, elected to be delivered to him all the goods and chattels of the said C. D. (except the oxen and heifers of his plough) and likewise one moiety of all and singular the lands and tenements of the said C. D. in your bailiwick, to hold to him the goods and chattels, and also to hold to him the goods and chattels and the said moiety as his freehold to him and his assigns, according to the form of the statute aforesaid, until the debt and damages aforesaid be thereon fully levied, and therefore we command you, that all the goods and chattels of the said C. D. (except the oxen and the heifers of his plough), and likewise a moiety of all his lands and tenements in your bailiwick, whereof the said C. D. on the aforesaid day of , in the year of our reign, at which day judgment was therein given, or at any time afterwards, was seised or possessed to the aforesaid A. B. without delay you cause to be delivered by a reasonable price and extent, to hold to him the said goods and chattels as his own proper goods and chattels, and also to hold the said moiety as his freehold to him and his assigns, according to the form of the statute aforesaid until the debt and damages aforesaid shall be thereof levied, and in what manner you shall execute this our precept make known to our justices at Lancaster aforesaid the first day of the next general session of assizes there to be holden, under your seal and the seals of them by whose oaths you shall have made that extent and appraisement; and have you there the names of them by whose oaths you shall make that extent and appraisement, and this writ. Witness, &c.

Tested the last day of the last assizes.

There may not be two several sorts of execution out at once, but one after another, Co. Rep. 222.

Two persons recovered against one in debt severally; he who had the first judgment sued an *elegit* and had a moiety of his lands delivered in execution; afterwards the other sued an *elegit*; the court gave directions to the sheriff that he should deliver out the moiety which he had at the time of the writ awarded; if a judgment for damages be against two defendants for one cause, and the plaintiff take out execution by *elegit* against one of them, in this case some say he can have no execution against the other, 23 H. 6. 47.

If two writs of *elegit* issue at one time, the sheriff ought to extend the half of all the land and give it to the more ancient debt, and then extend the half of the other half, and deliver the one half of all the one, and the other half to the other.

The ancient demesne lands are ex-

tendable upon a statute by *elegit*, Co. Rep. 5.

By virtue of an *elegit* the sheriff cannot sell a lease for a term of years, Alden's case, Co. Rep. 254.

After a *capias* one cannot have execution by *elegit* or other execution, but if after an *elegit* he be not satisfied, he may have a *capias* sued forth upon an *elegit*, Co. Rep. 79.

A *capias* lieth not after execution sued forth upon an *elegit* if it be returned served, but if *nil* be returned thereon, a *capias* will lie notwithstanding the *elegit* sued forth, Hob. Rep. 2.

The plaintiff recovered against the defendant as executor, and upon a *fieri facias* a *devastavit* was returned, and *elegit* prayed *de tenis* against executor and granted, Cro. Eliz. Mead, and Cheyney's case.

After an *elegit* a *ca. sa.* will not lie, Cro. Crowley and Lydfate's case.

If upon an *elegit* nothing is taken but goods,

goods, which are not enough, the plaintiff shall have a *fiat facias*. Hob. 58.

Though the writ of *elegit* be right, yet if the entry of it upon the roll be wrong, it is error, Hob. 901.

It may be sued forth after a *capias* or *fiat facias*, Hob. 57.

If a man shall sell his lands, and there shall be a judgment obtained against him before his lands are sold, whosoever hath it, it is liable to an *elegit* to satisfy that judgment, and to that purpose shall go forth a *fiat facias* against the tenants before the execution.

Observe, that if an *elegit* be gone out

and lands found and returned, you shall never take forth any other execution, nor any other *elegit*.

That if the sheriff have two *elegits* against the same man at one time, he may deliver a moiety of all his lands to one of them, and to the other he is only to deliver a moiety of the moiety that is left.

Upon a judgment above a year's standing, you may have an *elegit* without a *fiat facias*, but not a *fiat facias*, for that on the *elegit* they enter their continuances all along from the judgment, 7 Mod. 64; Co. Lit. 290; 2 Sha. 235.

(a) *Exigent*, writ of, observations thereon.

GEORGE, &c. We command you, that you cause to be executed A. B. late of, &c. in your county, &c. from county court to county court until, according to law and the custom of our kingdom, he be outlawed; if he do not appear, then do you take him in safe custody and keep him, so that you may have his body before our justices at Lancaster the first day of, &c. to answer C. D. of a plea, wherefore with force and arms the close of the said C. D. at P. he broke, and other wrongs to him did, to the great damage of the said C. D. and against the peace as is said; and whereupon you certified our justices at Lancaster on Wednesday last past, that the said A. B. was not found in your bailiwick, and have, &c.

The day before the test, and tested the last day of the last assizes but one.

(a) *Exigent* is a writ that lies in an action personal where the defendant cannot be found, nor any thing of his within the county whereto he is attached or distrained, and is directed to the sheriff to proclaim and call him five county court days after another, exclaiming and

requiring him to appear, upon pain of outlawry, or to be out of the protection of the king and his laws.

The judgment of outlawry is to be pronounced by the coroner on the fifth county court day.

(b) *Executione judicii*.

GEORGE, &c. to the mayor and alderman of our borough or vill of Preston, in the county of Lancaster, greeting: We command you, that execution of a judgment lately given before you in our court for the borough or vill of Preston aforelaid, upon a certain account in the same court without our writ, between A. B. plaintiff, and C. D. defendant, in a certain plea of

(b) *Executione judicii* is a writ directed to the judge of an inferior court to do execution upon a judgment therein, or to return some reasonable cause wherefore he delays execution. If execution be not done on the first writ, an *alias* shall issue, and *pluries* with a *causa* and

*causam nobis significes quare*, &c.; and if upon this writ execution be not done, or some reasonable cause be returned why it is delayed, the party shall have an attachment against him who ought to have done the execution returnable in K. B. or C. P.

debt,

debt, without delay you cause to be made any other former writ to the contrary thereof notwithstanding. Witnesses, &c.

Tested last day of the last assizes.

GEORGE, &c. to the sheriff of Lancashire, greeting: Upon a writ of <sup>false judgment.</sup> Whereas we lately by pretext of our writ commanded you, that in open court you should cause to be recorded the plaint which was in your county court (by our writ) between A. B. plaintiff, and C. D. defendant, in a certain plea of trespass upon the case to the damage of the said A. B. of ten pounds, which the same A. B. of the aforesaid C. D. demanded, as was said, whereupon the said C. D. complained that false judgment was given against him in your said court, and that you should have that record before our justices at Lancaster, at a certain day now past; nevertheless for certain causes moving our said justices, the tenor of the record and process aforesaid we remit to you, commanding that execution of the said judgment aforesaid in the same court so as aforesaid given, without delay you cause to be made our said writ to you before directed to the contrary thereof notwithstanding. Witnesses, &c.

GEORGE, &c. to the steward of the wapentake court, <sup>To the wapen-</sup> holden for the hundred of West Derby, greeting: Whereas by <sup>take of West</sup> pretext of our writ to the sheriff of Lancashire directed, we commanded the said sheriff, that taking along with him five discreet and lawful men in his county, in his own proper person he should go to the wapentake court aforesaid, and in open court there cause to be recorded the said plaint which was in our said court without our writ, between A. B. plaintiff, and C. D. defendant, of a plea of trespass on the case to the damage of the said A. B. thirty-nine shillings, as was said; and whereupon the said A. B. complained that false judgment was given against him in the said court, and that the said sheriff should have that record before our justices at Lancaster at a certain day now past; nevertheless for certain causes moving our said justices, the tenor of the record and process aforesaid we remit to you, commanding that execution of the said judgment in the same court so as aforesaid given, without delay you cause to be made. Witnesses, &c.

GEORGE, &c. to the sheriff of Lancashire, greeting: We (a) <sup>Fieri facias.</sup> command you, that of the goods and chattels of A. B. late of, &c. in your county, &c. in your bailiwick, you cause to be

(a) *Fieri facias* is a writ directed to the sheriff where judgment is had for debt or damages recovered in the king's court against any man, by which writ the sheriff is commanded to levy the

debt and damages of the goods and chattels of the defendant, and may be brought at any time within a year and a day after judgment.

made

WRITS FINAL OF—FI. FA.—

If it be directed  
to the bailiff of  
the liberty, pay  
two shillings and  
fourpence.

made as well a certain debt of pounds, which C. D. lately in our court before our justices at Lancaster recovered against him, as thirty-six pounds eight shillings, which to the same C. D. in our same court by the consideration of the same court were adjudged for his damages which he had sustained by reason of the detention of that debt, and that you have that money before our justices at Lancaster the first day of the next general session of assizes there to be holden, to render to the aforesaid C. D. of the debt and damages aforesaid, whereof he is convicted; and have you there this writ. Witnesses, &c.

Tested the last day of the last assizes.

In assumpsit.

GEORGE, &c. You cause to be made pounds, which to A. B. lately in our court before our justices at Lancaster by the consideration of the same court were adjudged for his damages which he had sustained, as well by reason of the not performing certain promises and undertakings to the said A. B. by the said C. at P. in your county made, as for his costs and charges by him about his suit in that behalf expended; and that you have that money, &c.

In trespass upon  
a non prof. for  
want of a declara-  
tion.

GEORGE, &c. You cause to be made twenty pounds, which to R. C. in our court before our justices at Lancaster by direction of the same justices were adjudged for his costs and charges; because that the said A. W. hath not prosecuted his writ in a certain plea of trespass by the said A. W. against the said R. C. brought according to the form of the statute thereof lately made and provided; and have you that money before our justices at Lancaster, &c. to render to the aforesaid R. C. for the costs and damages aforesaid; whereof he is convicted, and have, &c.

Tested the first day of the next assizes.

After a scire facias  
against a  
surviving execu-  
tor at suit of  
executors on a  
judgment in  
debt.

GEORGE, &c. We command you, that of the goods and chattels which were of R. B. gentleman, deceased, at the time of his death in the hands of E. W. late of, &c. executor, (together with P. C. late of, and deceased, whom the said E. survived) of the last will and testament of the said P. C. to be administered in your bailiwick, you cause to be made, as well a certain debt of one hundred pounds, which P. C. and G. C. executors of the last will and testament of W. C. in our court before our justices at Lancaster recovered against them, as forty-eight shillings and eightpence which the said O. and G. in our same court were adjudged for their damages which they had sustained by occasion of detaining that debt, to be made of the goods and chattels which were of the said R. at the time of his death in the hands of the said E. to be administered if he hath so much thereof in his hands to be administered, and if he hath not, then the damages aforesaid to be

made of the proper goods and chattels of the same E. and that you have there that money before our justices at Lancaster the first day of the next general session of assizes there to be holden, to render to the same O. and G. of the debt and damages aforesaid, whereof they are convicted, and wherefore it is considered in our said court that the said O. and G. may have execution against the said E. who survived the said P. C. of the debt and damages aforesaid, to be made of the goods and chattels which were of the said R. at the time of his death in the hands of the said E. to be administered; and if he hath not, then the damages aforesaid to be made of the proper goods and chattels of the said E. by default of the same E. and have, &c.

GEORGE, &c. You cause to be made ten pounds, which to A. B. in our court before our justices at Lancaster were adjudged for his costs and charges about his defence in a certain plea of trespass upon the case against the said A. B. at the suit of C. D. in our same court sustained, whereof he is convicted; and that, &c. and have you there this writ. Witness, &c.

For defendant  
for costs in trespass  
upon the  
case.

GEORGE, &c. We command you, that of the goods and chattels of C. D. in your bailiwick, you cause to be made pounds, which to P. M. in the county court held for the said county by the consideration of the same court were adjudged for his damages which he had sustained, as well by occasion of not performing several promises and undertakings by the said A. D. to the same P. M. at P. in your county made, as for his costs and charges by him about his suit in that behalf expended, whereof he is convicted, as by the inspection of the record and proceedings thereof which now remain in our court before our justices at Lancaster, and which for certain causes of error we have caused to come into our said court before our said justices at Lancaster appears to us of record, and which said record and proceedings in our same court before our justices at Lancaster are not reversed, but in all things affirmed, and also appears to us of record; and also eight pounds thirteen shillings and fourpence, which to the said P. M. were adjudged before our same court before our said justices at Lancaster, according to the form of the statute in such case made and provided, for his costs and damages which he hath sustained by occasion of the delay of execution of the aforesaid judgment on pretence of prosecuting of the aforesaid writ of error, whereof the said A. D. is likewise convicted, as likewise appears to us of record; and that you have that money before our said justices at Lancaster the first day of the next general session of assizes there to be holden, to render to the aforesaid P. M. for his costs and damages aforesaid and this writ. Witness, &c.

After a writ of  
false judgment  
the judgment  
being affirmed.

# WRITS FINAL.—FI. FA.—TEST. FI. FA.—

*Testat. fieri  
facias in  
assumpsit, by o-  
riginal in B.R.*

GEORGE the Third, &c. to the sheriff of London, greeting : We command you, that you cause to be levied of the goods and chattels in your bailiwick of John Goddard, late of London, warehousleman, four hundred and ninety-eight pounds, which in our court before us were awarded to James Barrow for his damages which he sustained by reason of not performing certain promises and undertakings by the said John to the said James; and that you have that money before us in fifteen days from the day of Easter wherefoever we shall then be in England, to render to the said James for his said damages, whereof the said John is convicted, as appears to us of record; and have you then this writ. Witness, William lord Mansfield, at Westminster, &c.

Levy four hundred and ninety-eight pounds. LEE.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster, or to his deputy, greeting: We command you, that by our writ under the seal of our said county palatine duly to be made out, and to be directed to the sheriff of the same county, you command the same sheriff that of the goods and chattels of J. D. in his bailiwick he cause to be levied one hundred and eighty-six pounds ten shillings, which William Hand, administrator of all and singular the goods, chattels, and credits which were belonging to James Hand, deceased, at the time of his death, lately in our court before us at Westminster recovered against him for his damages which he sustained, as well by occasion of a certain trespass on the case done and committed by the said John Dawson to the said W. H. as administrator aforesaid, at in the said county, as for his costs and charges by him about his suit in that behalf laid out, whereof the said John is convicted, as appears to us of record; and that he have that money before us at Westminster on next after to render to the aforesaid W. for his damages aforesaid; and have you then there this writ. Witness, &c. LEE.

*Testatum fieri  
facias gainst  
bail after scire  
facias sued out  
in assumpsit.*

GEORGE the Third, &c. to the sheriff of , greeting : Whereas we lately commanded our sheriff of Middlesex, that of the goods and chattels of (a) Thomas Jackson, otherwise called Thomas Jackson of Kintworth, in the parish of Norton and country of Derby, flater, and Samuel Atkin of Blackmore, in the said parish of Norton, weaver, the pledges and bail of Thomas Swindell, in his bailiwick, he should cause to be made thirty pounds and ten shillings, which Joseph Frith the younger, lately in our court before us at Westminster, recovered against the said Thomas Swindell for his damages which he had sustained, as well by occasion of the not performing certain promises and undertakings lately made by the said Thomas Swindell to the said Joseph Frith the younger, as for his costs and charges by him about his suit in that

(a) The addition of bail should be always put in.

behalf

behalf expended, whereof the said Thomas Swindell is convicted, as appears to us of record, and whereon in our same court before us at Westminster it is considered that the said Joseph Frith the younger may have his execution against the said Thomas Jackson and Samuel Atkin, for the damages aforesaid, according to the force, form, and effect of a certain recognizance acknowledged by them the said T. J. and S. A. in our said court before us for the said Thomas Swindell, at the suit of the said Joseph Frith the younger, as likewise appears to us of record, and that he should have that money before us at Westminster at a certain day now past, to satisfy the said Joseph Frith the younger, for his damages aforesaid; and our said sheriff of Middlesex at that day returned to us that the said Thomas Jackson and Samuel Atkin had not, nor had either of them any goods or chattels in his bailiwick whereof he could cause to be made the damages aforesaid, or any part thereof; whereupon on the behalf of the said Joseph Frith the younger, it is sufficiently attested in our court before us, that the said T. J. and S. A. have, and each of them hath sufficient goods and chattels in your bailiwick whereof you may cause to be made the damages aforesaid; therefore we command you, that of the goods and chattels of the said T. J. and S. A. in your bailiwick you cause to be made the damages aforesaid; and that you have that money before us at Westminster on next after to satisfy the said J. F. the younger his damages aforesaid. Witnes, &c.

GEORGE the Third, &c. to the sheriff of Surry, greeting: *Testatum fieri facias against bail after sci. facias issued out in debt, by administrator.*  
Whereas we lately commanded our sheriff of Middlesex, that of the goods and chattels of Thomas Swain, otherwise called Thomas Swain of St. Margaret's Hill, Southwark, hop-merchant, and George Thackrack, otherwise called George Thackrack of the same place, hop-merchant, the pledges and bail of Daniel May, in his bailiwick, he should cause to be made two hundred pounds debt, which Abraham Wessen, administrator of all and singular the goods, chattels, and credits, which were of Joan Wessen, widow, deceased, at the time of her death, who died intestate, lately in the court of the lord George the Second, late king of Great Britain, &c. before the said late king himself at Westminster, recovered against the said Daniel May, and also four pounds which in the same court were adjudged to the said Abraham Wessen, administrator aforesaid, for his damages which he sustained, as well by occasion of the detention of that debt as for his costs and charges by him about his suit in that behalf laid out, whereof the said Daniel May is convicted, as appears to us of record, and whereon in our court before us at Westminster it is considered that the said Abraham Wessen, administrator aforesaid, may have his execution against the said Thomas Swain and George Thackrack, and each of them, for the debt and damages aforesaid, according to the force, form, and effect of a certain recognizance by them the said Thomas Swain and George Thackrack, in the

# WRITS FINAL.—TEST. CA. SA.

faid court, of the faid late king, before the late king himself at Westminster, for the faid Daniel May at the suit of the faid Abraham Weffen, administrator as aforesaid, in the suit aforesaid acknowledged, as likewise appears to us of record; and that he should have the faid monies before us at Westminster at a certain day now past, to be paid to the faid Abraham Weffen, administrator as aforesaid, for his debt and damages aforesaid; and our faid sheriff of Middlesex at that day returned to us that the faid Thomas Swain and George Thackrack had not, nor had either of them any goods or chattels in his bailiwick whereof he could cause to be made the debt and damages aforesaid, or any parcel thereof; whereupon on the behalf of the faid Abraham Weffen in our court before us it is sufficiently attested, that the faid Thomas Swain and George Thackrack have, and each of them hath sufficient goods and chattels in your bailiwick whereof you may cause to be made the debt and damages aforesaid; therefore we command you, that of the goods and chattels of the faid Thomas Swain and George Thackrack in your bailiwick you cause to be made the faid two hundred pounds, the debt aforesaid, and the faid four pounds the damages aforesaid; and that you have the monies before us at Westminster on next after to be paid to the faid Abraham Weffen for his debt and damages aforesaid; and have you then there this writ. Witness, &c.

latum ca-  
satisfaci-  
um in af-  
fise from  
diesex into  
hire.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: Whereas we lately commanded our sheriff of Middlesex that he should take George Thompson if he should be found in his bailiwick, and him safely keep, so that he might have his body before us at Westminster at a certain day now past, to satisfy William Moore eleven pounds ten shillings, which the faid W. lately in our court before us recovered against the faid G. for his damages which he sustained, as well by occasion of the non-performance of certain promises and undertakings lately made by the faid G. to the faid W. as for his costs and charges by him about his suit in that behalf expended, whereof the faid George is convicted, as appears to us of record, and our faid sheriff of Middlesex at that day returned to us that the faid George Thompson was not found in his bailiwick; whereupon on behalf of the faid William it is sufficiently attested in our court before us that the faid G. T. doth secrete himself in your county; therefore we command you that by our writ under the seal of our faid county palatine duly to be made out, and to be directed to the sheriff of the faid county palatine, that you command the faid sheriff that he take the faid G. T. if he may be found in his bailiwick, and him safely keep, so that he may have his body before us at Westminster on next after to satisfy the faid William Moore for his damages aforesaid; and have you then there this writ. Witness.

GEORGE

GEORGE the Third, &c. to our chancellor of our county *Testatum capi-*  
palatine of Chester, or to his deputy there, greeting: Whereas *as satisfaci-*  
we lately commanded our chancellor of our county palatine of *dum from one*  
Lancaster that by our writ under the seal of our said county pala- *county palatine*  
tine of Lancaster, in due manner to be made out and to be direc- *into another, it*  
ted to the sheriff of our said county palatine of Lancaster, he should *B. R. in af-*  
command the said sheriff that he should take George Hope the *sumpt.*  
younger, if he should be found in his bailiwick, and keep him  
safely, so that he might have his body before us at Westminster at  
a certain day now past to satisfy Sarah Barlow, widow, of seven-  
teen pounds ten shillings, which the said Sarah lately in our court  
before us at Westminster recovered against the said George for  
her damages which she sustained, as well by means of not per-  
forming certain promises and undertakings lately made by the said  
George to the said Sarah as for her costs and charges by her about  
her suit in this behalf expended, whereof the said George is con-  
victed, as appears to us of record, and our said chancellor of our  
said county palatine of Lancaster at that day returned to us that  
the said sheriff, in answer to the said writ to him directed, had re-  
turned to him our said chancellor that the said George was not  
found in his bailiwick; whereupon on the behalf of the said Sarah  
it is sufficiently attested in our said court before us that the said  
George doth lurk and secrete himself in our said county palatine  
of Chester; therefore we command you that by our writ under the  
seal of our said county palatine of Chester, duly to be made out  
and to be directed to the sheriff of the said county, you command  
the same sheriff that he take the said George if he may be found  
in his bailiwick, and him safely keep, so that you may have his  
body before us at Westminster on Wednesday next after to  
satisfy the said Sarah of the damages aforesaid; and have there then  
this writ. Witness, William lord Mansfield, at Westminster,  
&c. LEE.

GEORGE the Third, &c. to the suitors of the county of Writ of privi-  
Middlesex, and the county clerk of Middlesex, and to every of *lege for an at-*  
them, greeting: Whereas as well by our royal prerogative as our *torney to re-*  
ancient custom in times past used and approved of, and which *move a plaint*  
hath to this present time been observed, all and every attorneys *out of the court*  
assigned to be enrolled in our court before us ought not to be, *of conscience,*  
nor have they during all the time aforesaid been used to be drawn *in B. R.*  
or compelled to answer before any several judges upon any plaint  
or pleas in any other place than in our said court before us; and  
whereas we have received information on the behalf of Simon  
Stanton, gentleman, being one of the attorneys in our court be-  
fore us, that some ill-disposed persons, having no regard to our  
prerogative and the custom aforesaid, do draw, and by their officers  
purpose to draw into plea him the said Simon Stanton before you,  
or some of you, as we have been informed, in manifest breach

## WRITS JUDICIAL.—ATTACHMENTS.

and diminution of our prerogative and the custom aforesaid, which should we suffer would lead to a pernicious example for the future; therefore we command and firmly enjoin you and every of you, that you forthwith totally cease from any further proceeding in all complaints and pleas by whomsoever brought or to be brought against him the said Simon Stanton in your court before you or either of you, by whatsoever name the parties are called before you, or any of you, acquainting the parties in such complaints and pleas that they may apply to our court before us for justice to be done them therein against the said Simon Stanton if they think proper. Witness, &c.

LEE.

(a) Attachment for contempt.

GEORGE the Third, by the grace of God of Great Britain, France, and Ireland, king, defender of the faith, &c. to the sheriff of Lancaster, greeting: We command you, that you attach A. W. so that you may have his body before our justices at Lancaster the first day of the next general session of assizes there to be holden, to answer us of and concerning certain contempts of the same A. committed, and further to do and receive what our court of him shall then and there consider in this behalf. Witness, &c.

Endorsed by rule of court of the      day of      , at the suit of T.W. gentleman, for non-payment of six pounds ten shillings for costs.

Tested the last day of last assizes.

(a) Attachment is to take one's body rule or order; and the persons attached to bring him to answer; it also issues for contempt of the court for not obeying may be examined upon oath or upon interrogatories.

Against an informer, upon suffering a non est.

GEORGE, &c. [as in the other until "to answer," instead of which say "to satisfy M. O. for fifty shillings"], which to the same M. in our court before our justices at Lancaster, according to the form of the statute in that case made and provided, were adjudged for his costs and charges which the said M. hath sustained by occasion of a certain information against the said M. by the aforesaid A. in our court aforesaid exhibited, the said A. as well for us as for himself exhibited that information, did not prosecute the same information according to the form of the statute in such case made and provided, whereof he is convicted; and have, &c.

1. GEORGE, &c. [as before until] to answer us of and concerning certain trespasses and contempts against the form of the statute made against usury, upon which he is impleaded, &c.

GEORGE

GEORGE, &c. [as in the first until] to answer E. G. gentleman, one of the attornies of our court of our bench here at Lancaster afore said, according to the liberties and privileges of the same court, [for such attornies and other ministers of the same bench, if in C. B.] from time whereof the memory of man is not to the contrary used and approved in the same, of a plea of debt; and have you there this writ. Witness, &c.

(a) Attachment, or writ of privilege, is where a man by virtue of his privilege calls answer to that court whereto he himself belongs, and in respect thereof is privileged there to answer some action; or if it is a power to apprehend a man in a place privileged.

IF it be of a plea of debt against many, then say, of a plea of Attachment in debt severally.

For such justices and other our ministers.

For such prothonotaries and other ministers.

To answer J. D. one of our serjeants at law, according to the liberties and privileges of our court of our bench.

To answer A. B. gentleman, one of the clerks of J. F. esquire, chief prothonotary of our court of our bench here at Lancaster, according to the liberties and privileges of the same court for such prothonotary, their clerks, and other ministers, &c.

perion.

For a judge.

For a prothonotary.

For a serjeant at law.

For the clerk of a prothonotary.

If an officer's or attorney's clerk brings a writ of privilege to be sued in their own court, the court on motion will grant a superedeas to it, 2. Sho. 237.

A plea of privilege comes too late after imparlance, Hard. 365. Lut. 7. 47. 2. Sho. 245. 445.

GEORGE, &c. to the sheriff of Lancashire, greeting: We command you, that you diligently enquire by the oaths of twelve honest and lawful men of your bailiwick, if it will be to the damage of us or of any others if we grant to R. F. esquire, licence to inclose a certain common highway leading from Overton to Tunstall Church, &c. and that he may hold the same way so inclosed to him and his heirs for ever, so that instead of the same way he the said R. F. do in his own land there make or cause to be made a certain other highway of the same length or breadth, as convenient for us and our subjects passing through the same by themselves, or with horses, oxen, carts, and carriages; and if it be to the damage or prejudice of us or any other, of whom, and how, and in what manner, and how much the same way, so to be holden, doth by number of perches or feet of land, as well in length as breadth extend; and that you send the inquisition which you should make thereupon without delay to us in our chancery at Lancaster directly under your seal and the seals of them by whom the same shall be made, and this writ. Witness ourself at Lancaster.

(b) Writ of *ad quod damnum*, for inclosing a common highway in lieu of making another.

(b) *Ad quod damnum* is a writ which ought to be issued before the king grants certain liberties, as a fair or market, and

which may be prejudicial to others. It is directed to the sheriff to enquire what damages it may do to the king to grant a market,

# WRITS ORIGINAL.—CA. AD RESP.—

market, fair, &c. Terms De Ley, 25. see Jacob's Law Dictionary, under the  
It is also in several other cases; for which title *Ad quod Damnum*.

**(a) Capias ad respondendum** GEORGE, &c. to the sheriff of Lancashire, greeting: We command you, that you take A. B. late of in your county, if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our justices at Lancaster on Wednesday the day of next ensuing, [or if you would make it returnable at the assizes say, "the first day of the next general session of assize there to be holden"] to answer C. D. of a plea wherefore with force and arms the close of the said C. D. at Preston he broke, and other wrongs to him did, to the great damage of the said C. D. and against our peace, as it is said; and have you there this writ. Witness, William earl of Mansfield, at Lancaster, the twentieth day of March in the twentieth year of our reign BOWLES.

Tested the first day of the last preceding assizes,

A. B.

You are served with this process to the intent that you may appear in his majesty's court of common pleas at Lancaster, at the return thereof, being on Wednesday the day of 1780 (or if returnable at the assizes as before), in order to your defence in this action.

**(a) Capias ad respondendum** is where defendant, and to bring him to answer an original is sued out (before judgment the plaintiff, is given in a personal action) to take the

**In debt.**

[As in the other until] that you take J. T. late of P. in your county, yeoman, otherwise called, &c. to answer J. H. of a plea that he render to him ten pounds which to him he owes and unjustly detains; and have, &c. Witness, &c.

[Tested as before.]

**When there are two defendants.**

[As before until] to answer A. B. of a plea that the aforefaid E. F. render to him twenty pounds; and of a plea that the aforefaid G. H. render to him twenty pounds, which to him they owe and unjustly detain, as is said; and have, &c.

**Alias.**

George the Third, &c. to the sheriff of Lancashire, greeting: We command you as before we commanded you, that you take, &c.

**Pluries capias,** as for the last have.

George, &c. We command you, as often before we commanded you, that you take, &c.

**Qui tam ac-** tion.

George, &c. to answer us and W. F. who as well for us as for himself prosecutes of a plea that he render to us and the said W. F. ten pounds, which to us and to the said W. F. he owes and unjustly detains, as is said; and have, &c.

That

## FINAL AND JUDICIAL—C. S. S.

That in actions of detinue, case, trover, or in any other personal action, they ought to make the *capias* to agree with the body of the original, for they ought to be all one in substance. Vide 5.C. v. c. 15. f. 1. No variance or effect in any of the proceedings to be insisted on after verdict in error.

George, &c. that you take A. L. of, &c. widow, administratrix of the goods and chattels which were of J. her late husband, at the time of his death, who died intestate, if she shall be found in your bailiwick, &c. Against an administrator.

George, &c. to answer J. H. administrator of all and singular the goods and chattels, rights and credits, which were of G. S. lately deceased, at the time of his death, with the will of the said G. S. annexed, of a plea, &c. At suit of an administrator with will annexed.

George, &c. to answer A. B. and C. D. executors of the last will and testament of E. F. of a plea, &c. At suit of executors.

George, &c. to answer A. B. and C. D. assignees of the goods and chattels, credits and effects of E. F. a bankrupt, according to the form of the statute in such case made and provided, of a plea, &c. At suit of assignees of a bankrupt.

George, &c. to the coroners of Lancashire, greeting: We command you, &c. to answer J. H. esquire, sheriff of the county aforesaid, of a plea, &c. At suit of the sheriff, directed to the coroners.

### CAPIAS AD SATISFACIENDUM in Common Pleas at Lancaster, in a variety of Cases. (a)

GEORGE, &c.: We command you, that you take A. B. if, &c. to satisfy C. D. of ten pounds, which to the same C. lately in our court before our justices at Lancaster, according to the form of the statute thereof lately made and provided, were adjudged for their costs and charges in and about his defence in a certain action of debt on demand, in our same court before our justices brought, in which said action the said A. B. against the said C. D. as well for us as for himself prosecuted, and in the same action the said A. B. was nonsuited, whereof he is convicted; and have, &c. For defendant on a nonsuit, for not joining issue in an action *qui tam*. 23.H. 8. c. 15. 8. Eliz. c. 2. 4. Jac. c. 3.

Telled the last day of the last affizes.

George, &c. which he hath sustained as well by reason of certain trespasses and assaults upon the same C. D. by the said A. B. with force and arms, and against our peace, at P. in your county, made as for his costs and charges by him about his suit in this behalf expended, whereof he is convicted; and have, &c. In trespass and assault.

George, &c. to satisfy C. D. of twenty shillings, which to the same C. in our court before our justices at Lancaster, by the direction of the same justices, according to the form of the statute thereof, For upon a *non prof.* for want of declaration.

(a) These forms will apply to other counties palatine, &c. in all other courts.

# WRITS FINAL AND JUDICIAL.—CA. SA:

lately made and provided, were adjudged for his costs and charges, because that the afore said A. did not prosecute his writ in a plea of trespass by the same A. against the said C. in our said court obtained, whereof he is convicted; and have, &c.

For costs upon a non suit in trespass.

George, &c. to satisfy C. D. of twenty-six pounds sixteen shillings and eightpence, which to the same C. in our court before our justices at Lancaster, according to the form of the statute thereof lately made and provided, were adjudged for his costs and charges about his defence in a certain plea of taking and unjustly detaining a mare and a foal by the said H. against the said C. in our same court brought, which same plea the said H. did not prosecute; whereof he is convicted; and have, &c.

For the plaintiff in ejectment, for costs

George, &c. to satisfy A. B. of twenty pounds, which to the same A. in our court before our justices at Lancaster were adjudged for his damages which he hath sustained by occasion of a certain trespass in ejectment by the said C. D. with force and arms, and against our peace, at P. in your county done, whereof he is convicted, and have, &c.

Against the plaintiff in ejectment, for costs on a verdict.

George, &c. to satisfy A. B. of twenty pounds, which to the same A. in our same court before our justices at Lancaster, according to the form of the statute thereof lately made and provided, were adjudged for his costs and charges by him sustained about his defence in a certain action of trespass in ejectment, which the same C. in our same court against the said A. brought and prosecuted, whereof the said C. is convicted, and have, &c.

*Cepia ad faciendum* in debt is a judicial writ for execution after judgment, to take the body of a man to imprison him till satisfaction is made. It lies not at common law, but it is given

in many cases by statute. There is also *capias ad faciendum* for plaintiff after *fiery jurias*, and a *capias ad satisfaciendum* on a writ of enquiry in case.

In debt. :

George, &c. to the sheriff of Lancashire, greeting: We command you that you take A. B. late of in your county, if, &c. and him safely keep, so that you may have his body before our justices at Lancaster the first day of the then next general session of assizes there to be holden, to satisfy C. D. as well for a certain debt of twenty pounds, which the same C. in our court before our justices at Lancaster hath lately recovered against him, as of twenty-six shillings and eight-pence, which to the same C. in the same court were adjudged for his damages which he hath sustained by occasion of the detaining that debt; whereof the said A. is convicted; and have you there this writ. Witnesses, &c.

Tellid the last day of the last assizes.

George, &c. to satisfy C. D. of fifteen shillings, which to the said C. D. lately in our court before our justices at Lancaster were adjudged for his damages which he had sustained, as well by reason of

of certain trespasses by the said A. to the said C. lately done, as for his costs and charges by him about his suit in this behalf expended; whereof he is convicted; and have, &c.

George, &c. to the sheriff of Lancashire, greeting: Whereas After a *sevi* by our writ we lately commanded you, that of the goods and chat- *facias and h* tels of A. B. late of, &c. in your bailiwick, you should cause to be levied nineteen pounds sixteen shillings and eightpence, which *et bona return* ed in *assumpsit*, to C. D. and M. his wife, lately called M. F. widow, administratrix *asset of an ad-* ministratrix of the goods and chattels, rights and credits, which were of *ministratrix* and her hus- W. F. her late husband, deceased, who died intestate, as is said *band.* lately in our court before our justices at Lancaster were adjudged for their damages which they had sustained as well by occasion of the not performing of several promises and undertakings to the said W. in his lifetime, at P. in your county, by the said A. made, as for his costs and charges by them about their suit in this behalf expended; and that you should have that money before our justices at Lancaster at a certain day now past, to render to the aforesaid C. and M. of the damages aforesaid, whereof he is convicted; and you returned to our justices at Lancaster at that day that the aforesaid A. had no goods or chattels in your bailiwick whereof the damages aforesaid, or any part thereof, should be levied; therefore we command you that you take the aforesaid A. if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our justices at Lancaster the first day of the next general session of assizes there to be holden, to make satisfaction to the said C. and M. of the damages aforesaid; and have you there this writ. Witnesses, &c.

George, &c.: Whereas we lately commanded you that of the goods and chattels which were of A. B. at the time of his death, who died intestate, in the hands of A. B. widow, administratrix of all and singular the goods and chattels, rights and credits, which were of the said A. to be administered, in your bailiwick, you should cause to be made, as well a certain debt of fifty-two pounds which C. D. lately in your court before our justices at Lancaster recovered against the said A. as of nineteen pounds which to the said C. in our same court were adjudged for his damages which he sustained by occasion of detaining that debt, if the said A. had in her hands so many goods and chattels which were of the same A. at the time of his death, to be administered; and if she had not, then that you should cause to be made nineteen pounds for the damages aforesaid of the proper goods and chattels; and that you should have that money before our justices at Lancaster at a certain day now past, to render to the said C. of the debt and damages aforesaid; and at that day you returned to our said justices that the said A. had no goods or chattels in your bailiwick whereof the damages aforesaid, or any part thereof could be made; therefore we command you that you take the said A. if she shall be found in your

Against an ad-  
ministratrix, in  
debt (after *fi-  
eri facias re-  
turned nulla  
bona*), for the  
damages *de bo-  
nis propriis*, in  
debt.

1. R. Pr. C.B.

243.

In *assumpsit*.

1. R. Pr. C.B.

245.

# WRITS FINAL.—CA. SA. AFTER FL FA.—CA. UTL

your bailiwick, and her safely keep, so that you may have her body before our justices at Lancaster, &c. to satisfy the said C. of the damages aforesaid, &c.

If you sue out a *fi ri facias* against his body till the return of the goods, you cannot have a *ca. fieri faciat*, Moor & Rep. 69, 70.

After a *fi ri facias* when the sheriff had levied part and returned *nihil habet* for the residue. George, &c.: Whereas by our writ we commanded you, that of the goods and chattels of A. B. in your bailiwick you cause to be made, as well a cert un debt of twenty pounds which C. D. in our court before our justices at Lancaster lately recovered against him, as twenty-six shillings which to the same C. in our same court were adjudged for his damages which he had sustained by occasion of the detention of that debt; and that you should have that money before our justices at Lancaster at a certain day now past, to render to the aforesaid C. of the debt and damages aforesaid, whereof he is convicted; and at that day now returned to our justices at Lancaster that of the goods and chattels of the said A. you had caused to be made twelve pounds, and that money you had ready at that day and place aforesaid, and that the aforesaid A. no other or more goods or chattels had in your bailiwick whereof the residue of the damages aforesaid could be made and levied, as by our writ you was commanded, therefore we command you that you take the aforesaid A. if, &c. and him safely keep, so that you may have, &c. to satisfy the aforesaid C. of the residue of the debt and damages, and have, &c.

If the principal upon special bail, does not after judgment pay the money or yield his body then, and not before, execution is to be sued against the bail.

If a woman, executrix to J. S. take a husband, and the husband and wife bring debt in an obligation in the right of his wife as executrix to J. S. against

J. D. and have judgment against him, and recover the debt with damages and costs, and after his wife die before execution is sued, the husband shall not have execution on this judgment, but the succeeding executor or administrator to J. S. Co. 5 70.

*Capias ut latum* (a) in the common pleas at Lancaster. GEORGE, &c. to the sheriff of Lancashire, greeting; We command you, that you omit not by reason of any liberty within your county, but take A. B. late of in your county, outlawed at the Moot Hall in Lancaster, in your county [here set forth

(a) To a writ of execution after judgment which lieth against one outlawed upon any iury, directed to the sheriff, commanding him upon receipt thereof to apprehend the party outlawed for contempt in not appearing upon the *exigent*, and to keep him in safe custody, and to bring him into the court at the return thereof, where he is to remain without bail or mainprize.

*Capias ut latum et inquirendum de bonis* is a writ of the same nature as the former, only it gives power to the sheriff (over and beside the apprehension of his body) to enquire also of his goods and chattels, and either of them may be had before or after judgment for debt and damages, Winch. 78. on N. Br. 154.

the day], at the suit of C. D. of a plea of debt, if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our justices at Lancaster the first day of the next general session of assizes there to be holden, to do and receive what our court of him shall consider in this behalf; and have, &c.: Witnesses, &c.

[If it be after judgment then say of a plea of debt whereof he is convicted.]

George, &c. to the sheriff of Lancashire, greeting: We command you, that you omit not by reason of any liberty within your county, but by the oath of honest and lawful men of your county you diligently enquire what goods and chattels, lands and tenements, A. B. late of, &c. hath or had in your bailiwick, on Tuesday the day of in the year of our reign, or ever afterwards, on which day the said A. was outlawed in your county at the suit of C. D. of a plea of debt, as you returned to our justices at Lancaster at a certain day now past, and the same by their oaths you cause to be extended and appraised of the true value thereof, and those by whom their inquisition you shall find you take into your hands, and cause to be kept, so that you may have to us of the true value and issues thereof, the same being so extended and appraised, and what you do therein make known to our justices at Lancaster the first day of the next general session of assizes there to be holden, distinctly and openly under your seal and the seals of them by whose oath you shall make the extent and appraisement: And for that whereas the aforesaid A. being outlawed lurketh and runneth up and down in contempt of us and in prejudice of our crown, as we understand, we command you, that you take the said A. B. wheresoever he shall be found in your bailiwick, as well within liberty as without, and him safely keep, so that you may have his body before our justices at the day and place aforesaid, to do and receive what our court of him shall consider in this behalf; and have you there the names of them by whose oaths you shall make that extent and appraisement of this writ. Witnesses, &c.

*Non omittas writ de inquirendis, as above.*

Men outlawed shall be put to answer to actions brought against them, but not to be answered in any action brought by them; and if such a man sue another, he that is sued may plead this outlawry in bar of this suit, but then it must be shewn in court *sub pede sigilli*, Co. Inst. 1. 8.—The original was against Levellin, with a *cap.* against one, and all the mesne process was against Levellin with a *cap.* against two; also the process was against two, and the sheriff returned *non sunt inventi*, but doth not say *nec eorum aliquis*, for these causes an outlawry was reversed.—Error to reverse an outlawry: the original was Sheffinton, and the mesne process Shiffington, and for this variation it was

reversed. Outlawry reversed, because *cap.* was *teste* E. Anderson, and so it was wanting, for it should have been *teste*, by the court. Upon a *cap. ut la.* though on mesne process and at suit of a subject; yet upon that writ they may break open any outlawed doors after demand and refusal. 5. Co.—On information for a riot and forcible entry into a house; defendant entered on pretence of a forfeiture on conviction of murder, being bailiff of Westminster. Court would not admit it in evidence; for let a man's possession be rightful or wrongful, a forcible entry on an house, though with a lawful pretence, is a riot.

GEORGE,

## MESNE PROCESS.—DISTRINGAS.—WRITS

*Distringas jurors, for a view of the locus in quo.*

GEORGE, &c.: We command you, that you distrain all the lands and chattels in your bailiwick of A. B. C. D. E. F. and G. H. all of Cartmelfelt; J. K. of M.; L. M. of N.; and O. P. of U. all in your county, gentlemen, jurors summoned, impanelled, and returned by you to appear in our court before our justices at Lancaster, for the trial of the issue joined in a certain cause between A. B. plaintiff, and C. D. defendant, of a plea of , so that you may have their bodies at the place in question between the said parties, upon Saturday the thirteenth day of August next, to take a view and consider of the premises in question before the time of the trial of the said issue; and have you the names of the said jurors who shall take such view before our justices at Lancaster the first day of the next general session of assizes there to be holden, and this writ. Witness, &c.

*Writ of grand cape (a), in and observations thereon.*

GEORGE, &c. greeting: Take into our hands by the sight of honest and lawful men of your county, the third part of one messuage, &c. with the appurtenances, in P. which A. B. widow, who was the wife of C. B. in our court before our justices at Lancaster claims against D. B. as the dower of the same A. B. of the endowment of the said C. formerly her husband by our writ of dower, whereof she nothing hath by default of the same C. D. and the day of taking make known to our justices at Lancaster, by our letters sealed and summoned by good summoners, the same D. B. that he be before our justices at Lancaster, on Monday next to come in this same session of assizes there to be holden, to answer and shew why he was not in our court before our justices at Lancaster aforesaid on the first day of the same general session of assizes, as he was summoned; and have you there the names of them by whose sight you shall do this, and the names of the summoners, and this writ. Witness, &c.

*Last day of the assizes on which the writ issues.*

Tested the first day of the assizes.

(a) *Grand cape* is a writ which lies before appearance, to summon the tenant to answer the default; and also over to the demandant; and in the *Nat. Brev.* it is defined to be where a man hath brought a *precipe quod red.* of a thing touching plea of lands, and the

tenant makes default at the day to him given in the original writ, then this writ shall go to the king to take the lands into his hands; and if the tenant come not at the day given him thereby he loith his land.

*Petit cape* is where the tenant is summoned in a plea of lands and comes on the summons, and his appearance is recorded; it at the day given him he prays the view, and having it granted makes default, then shall issue this writ for the king, *Nat. Brev.* 162. The difference between the *grand* and *petit cape* is that the *grand cape* is awarded upon the tenant's not

appearing, or demanding the view in such real actions, where the real writ does not mention the particulars demanded. And the *petit cape* is after appearance or view granted; and whereas the *grand cape* summons the defendant to answer for the default, and likewise over to the demandant, the *petit cape* summons the defendant to answer the default only.

GEORGE

GEORGE the Third, &c. to the sheriff of Somersetshire, *Grand cape for*  
greeting: Take into our hands, by the view of honest and lawful *default of ap-*  
men of your county, the third part of eight acres of land, half an *pearance, in*  
acre of meadow, and eighteen acres of pasture, in the parish of *dower.*  
Curry Revel, which Elizabeth Coate, widow, who was the wife  
of William Coate, in our court before our justices at Westmin-  
ster, claimeth as her dower by the endowment of the said William,  
heretofore her husband, against Jeffery Pottinger, by our writ of  
dower, whereof she hath nothing by the default of the defence  
of the said Jeffery, and the day of taking do you certify to our  
justices at Westminster by your letters sealed and summoned by  
good summoners the aforesaid Jeffery that he be before our jus-  
tices at Westminster in      days after      to answer thereunto,  
and to shew wherefore he was not in our court before our justices  
from the      day of      in      last past, as he was summoned; and  
have you there the names of them by whose view you shall make  
this summons, and this writ. Witness sir John Eardley Wil-  
mot, knight, at Westminster, the      day of      , in the  
year of our reign. DICKENS.

GEORGE the Third, &c. to the sheriff of Somersetshire, *Grand cape after*  
greeting: Take into our hands, by the view of honest and lawful *an effoign ad-*  
men of your county, the third part of four acres of meadow, in *journe.*  
the parish of Aller, which Elizabeth Coate, widow, who was the  
wife of William Coate, in our court before our justices at West-  
minster, claimeth as her dower by the endowment of the said  
William, heretofore her husband, against George Sawthe, by our  
writ of dower, whereof she hath nothing by default of the said  
George, and the day of taking do you certify to our justices at  
Westminster by your letters sealed and summoned by good sum-  
moners the aforesaid George that he be before our justices at  
Westminster in      days of the      to answer thereunto, and to  
shew wherefore he kept not the day to him given by his effoign in  
our court before our justices at Westminster from the day of  
in      days last past after he had been summoned; and have you  
there the names of them by whose view you shall make this sum-  
mons, and this writ. Witness sir John Eardley Wilmot, knight,  
at Westminster, the      day of      , in the      year of our  
reign. COOKE.

GEORGE the Third, &c. to the sheriff of      , greeting:  
We command you, that of the goods and chattels of A. B. in *Fi. fa. upon a*  
your bailiwick you cause to be made seven pounds ten shillings, *non pay. for*  
lately adjudged to C. D. in our court before our justices at W. *want of a repli-*  
according to the form of the statute in such case made and provided, *cat on.*  
for his costs and charges by him about his defence in a certain ac-  
tion of trespass on the case lately brought in our same court before  
our justices at Westminster by the said A. against the said C. and  
which

which the said A. hath not since further prosecuted; and have you that money before our justices at Westminster [the return] to render to the aforesaid C. for his costs and charges aforesaid, whereof the said A. is convicted; and have you there this writ. Witness, &c.

*h. p. on recor-  
lari, inreplevin.*

GEORGE the Third, &c. to the sheriff of Somersetshire, greeting: Put by gages and safe pledges William Farthing, that he be before our justices at Westminster in        days to answer to Henry Cludland of a plea wherefore he took the cattle of the aforesaid Henry and them detained against gages and pledges, as it is said, to shew wherefore he was not in our court before our justices at Westminster from the        day of        in        days last past, being the day to him prefixed, and have you there the names of the pledges, and this writ. Witness, &c.

MARTIN.

*h. writ of res-  
se against the  
wife and son,  
ad a test. ca. ad  
against the  
indebr.*

GEORGE the Third, &c. to the sheriff of Dorsetshire, greeting: We command you, that you take Elizabeth Foote, the wife of William Foote, late of Filehead Nevil, in your county, yeoman, and John Foote, son of the said William Foote, if they shall be found in your bailiwick, and them safely keep, so that you may have their bodies before our justices at Westminster in        days of        to answer to us of a certain trespass, rescue, and contempt by you before our justices at Westminster from the        day of        in        last past returned: We also command you, as formerly we have commanded you, that you take the aforesaid William Foote, if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our justices at Westminster at the day aforesaid to answer to Willoughby Johnson, executor of the last will and testament of Jane Willoughby, of a plea that he render to him        pounds which he owes to him and unjustly detains, as it is said; and have you there this writ. Witness, &c.

MARTIN.

*h. writ of enquiry  
an attach-  
ment at the suit  
an attorney  
C. B.*

GEORGE the Third, &c. to the sheriff of Hertfordshire, greeting: Whereas John Baker was attached by our writ of privilege issuing out of our court of common bench to be in our court before our justices at Westminster to answer unto William Tannett, gentleman, one of the attornies of our said court of C. B. according to the liberties and privileges of our same court for such attornies and other ministers of the same bench time out of mind used and approved of in the same of a plea, that whereas the said John, after the first day of May, in the year of Our Lord 1705, [to the end of the declaration] to the damage of the said William of        pounds, as it is said, and in such manner in our same court [as in others until the return, which is always at a day certain],

Certain], on Wednesday next after fifteen days from the day of Easter, under your seal. Witness sir John Eardley Wilmot, knight, at Westminster, the      day of      , in the      year of our reign. COOKE.

GEORGE the Third, &c. to our chancellor of our county *A. fi. fa. into a county palatine in assumption* palatine of Lancaster, or to his deputy there, greeting: We command you, that by our writ under the seal of our said county palatine duly to be made out, and to be directed to the sheriff of the same county, you command the same sheriff, that of the goods and chattels of C. D. in his bailiwick, he cause to be levied one hundred pounds which A. B. gentleman, lately in our court before us at Westminster recovered against him for his damages which he sustained as well by occasion of the not performing certain promises and undertakings by the said C. to the aforesaid A. lately made as for his costs and charges by him about his suit in that behalf laid out, whereof the said C. is convicted, as appears to us of record; and that he have that money before us at Westminster on      next after      to render to the aforesaid A. for his damages aforesaid; and have you then there this writ. Witnesses, &c.

GEORGE the Third, &c. to our chancellor of our county *Fi. fa. in debt into a county palatine* palatine of Lancaster, or to his deputy there, greeting: We command you, that by our writ under the seal of our said county palatine duly to be made out, and to be directed to the sheriff of the same county, you command the same sheriff, that of the goods and chattels of John Halliwell in his bailiwick you cause to be levied      pounds which Hugh Halliwell lately in our court before us at W. recovered against him of debt, and also sixty-three shillings which in our said court before us was adjudged for his damages as well on occasion of detaining that debt as for his costs and charges by him about his suit in that behalf laid out, and whereof the said John is convicted, as appears to us of record; and that you have that money before us at Westminster on      next after the      to render to the aforesaid Hugh for his debt and damages aforesaid; and have you then there this writ. Witness William lord Mansfield, at Westminster, the      day of      in the      year of our reign. LEE AND ANTONIE.

GEORGE the Third, &c. to the sheriff of      , greeting: We *Fi. fa. on a prof.* command you, that you cause to be made of the goods and chattels of A. B. in your bailiwick,      pounds which were adjudged to C. D. in our court before us at Westminster, according to the form of the statute thereof lately made and provided, for his costs and charges by him sustained in a certain action of trespass, or on the case (as it is), lately brought in our said court before us by the  
Vol. X. U said

## WRITS FINAL.—CA. SA.—FI. FA.—TEST. FI. FA.—

said A. against the said C. whereupon the said A. hath not afterwards further prosecuted his said action, whereof the said A. is convicted, as it appears to us of record; and have you the money before us at Westminster on next after to render to the said C. for his costs and charges aforesaid; and have you there then this writ. Witness, &c.

This will do on any *non prof.* or nonsuit.

*A. ca. sa. against plaintiff for not prosecuting his action, in trespass, B. R.*

GEORGE the third, &c. to the sheriff of S. greeting: We command you, that you take John Smith, junior, if he may be found in your bailiwick, and him safely keep, so that you may have his body before us at Westminster on next after to satisfy William Wood and Edward Evans of pounds, according to the form of the statute in that case made and provided, adjudged to the said William and Edward in our court before us for their costs and charges in a certain action against the said William and Edward at the suit of the said John in a plea of trespass, inasmuch as the said John hath not prosecuted his said action; and have you there then this writ. Witness William lord Mansfield, at Westminster, the day of , in the year of our reign.

LEE.

*Fi. fa. into a county palatine, in debt, B. R.*

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: We command you, that by our writ under the seal of our said county palatine duly to be made out, and to be directed to the sheriff of the same county, you command the same sheriff, that of the goods and chattels of John Halliwell in his bailiwick he cause to be levied three hundred and twenty pounds which Hugh Halliwell lately before us at W. recovered against him of debt as also sixty-three shillings which to the said Hugh lately in our said court before us were adjudged for his damages which he sustained as well on occasion of detaining that debt as for his costs and charges by him about his suit in that behalf laid out, whereof the said John is convicted, as appears to us of record; and that you have that money before us at Westminster on next after to render to the aforesaid Hugh for his debt and damages aforesaid; and have you there then this writ. Witness, &c.

LEE.

*T. fi. fa. in debt, C. B.*

GEORGE the Third, &c. to the sheriff of Lincolnshire, greeting: We command you, that you cause to be made of the goods and chattels in your bailiwick of John Wiche as well a certain debt of sixty-seven pounds which John Wood in our court before our justices at Westminster recovered against him, and also sixty-three shillings which were adjudged to the said John Wood in our said court for his damages which he had sustained

tained by occasion of the detaining that debt; and have you that money before our justices at Westminster on Friday next after the morrow of the Holy Trinity to render to the said John Wood for his debt and damages aforesaid, whereof the said John Wiche is convicted; and whereupon our sheriff of Middlesex sent to our justices of a certain day now past that the said J. W. has no goods or chattels in his bailiwick whereof he could cause to be made or levied the said debt and damages, or any part thereof, whereas it is testified in our said court that the said J. W. has sufficient goods and chattels in your said county whereof the said debt and damages may cause to be made and levied; and have you there this writ. Witness sir John Barclay Wilnot, knight, at Westminster, &c.

GEORGE the Third, &c. to our chancellor of our county *A test. fi. fa.*  
 palatine of Lancaster, or to his deputy there, greeting: We *from Middlesex*  
 command you, that by our writ under the seal of our said county *to Lancashire,*  
 palatine duly to be made out, and to be directed to the sheriff of *in assumpsit by*  
 the same county, you command the same sheriff, that he cause to *an attorney.*  
 be levied of the goods and chattels in his bailiwick of John Ashworth twelve pounds which to Edward Parker, gentleman, one of the attornies of our court before us, were recovered for his damages which he sustained as well on occasion of the not performing certain promises and undertakings by the said John made to the said Edward as for his costs and charges by him about his suit in that behalf laid out; and that he have that money before us at Westminster on next after to render to the said Edward for his damages, costs, and charges aforesaid, whereof the said John is convicted, as appears to us of record; and whereupon our sheriff of Middlesex hath certified to us at a certain day now past that the said John hath no goods or chattels in his bailiwick whereof he can cause to be levied the damages, costs, and charges aforesaid, or any part thereof, whereas it is testified in our said court that the said John hath sufficient goods and chattels in our said county palatine whereof the damages, costs, and charges aforesaid may be levied; and have you then there this writ.

GEORGE the Third, &c. to the sheriff of Lincolnshire, *A test. fi. fa.*  
 greeting: Whereas we lately commanded our chancellor of our *from Lancaster*  
 county palatine of Lancaster, that by our writ under the seal of into *Lincoln-*  
 our said county palatine in due manner to be made out, and to be *shire, in assump-*  
 directed to the sheriff of our said county palatine of L. he should *fit.*  
 command our said sheriff that he should cause to be made of the goods and chattels of A. B. in his bailiwick twenty-two pounds which C. D. lately in our court before us recovered against him for his damages which he hath sustained as well by occasion of the not performing certain promises and undertakings by him the said A. B. to him the said C. D. as for his costs and charges by him

## WRITS.—SUPERSEDEAS—

about his suit in that behalf, whereof the said A. B. is convicted, as appears to us of record; and that he should have that money before us in our same court at a certain day now past to render to the said C. D. for his damages aforesaid; and our said chancellor of our said county palatine at that day returned to us that the said sheriff, in answer to the said writ to him directed, had returned to him our said chancellor, that the said A. B. had no goods or chattels in his bailiwick upon which he could cause to be levied the damages aforesaid, whereupon on the behalf of the said C. D. it is sufficiently attested in our court before us that the said A. B. hath goods and chattels sufficient within your bailiwick whereof you may cause the said monies to be made: therefore we command you, that of the goods and chattels of A. B. in your bailiwick you cause to be made the said twenty-two pounds, and that you have that money in our same court before us on next after to render to the said C. D. for his damages aforesaid; and have you there this writ. *Witness, &c.*

*Superseas to discharge defendant out of the Fleet for not charging in execution in due time, C. B.*

GEORGE the Third, &c. to our warden of our prison of the Fleet, greeting: Whereas Henry Butt, on the day of 1767, rendered himself to our said prison before one of our justices of our court of the bench, in discharge of his bail at the suit of John Smith for six hundred and thirty-three pounds debt upon demand, and because the said John hath not proceeded to charge the said Henry in execution within two terms next after judgment obtained in the said action, according to the rules of our said court of the bench, and for that the said Henry hath appeared in our said court by Edward Parker his attorney at the suit of the said John in the plea aforesaid; we therefore command you, that if the said Henry be detained in our said prison under your custody for that and no other cause, that then you shall suffer him to go at large, as you will answer the contrary at you peril. *Witness sir John Eardley Wilmot, knight, at Westminster, &c.*

DICKENS,

*Fi. fa. for the residue of a debt after part was levied and paid plaintiff on a former, B. R.*

GEORGE the Third, &c. to the sheriff of Middlesex, greeting: Whereas by our writ to you directed we lately commanded you, that of the goods and chattels of Mary Goodwin in your bailiwick you should cause one hundred and sixty-six pounds of debt which Thomas Low in our court before us at Westminster recovered against her, as also sixty-three shillings which to the same Thomas in our same court were adjudged for his damages which he sustained as well on occasion of detaining of that debt as for his costs and charges by him about his suit in that behalf laid out and expended, whereof the said Mary was convicted, as appears to us of record; and that you should have that money before us at Westminster on next after last past to render to the said Thomas for his debt and damages aforesaid; and you at that day returned to us at Westminster, that by virtue of the said writ

writ you had made of the goods and chattels of the said Mary Goodwin twenty-seven pounds thirteen shillings and sixpence, which monies you had paid to the said Thomas in satisfaction of so much of his debt and damages aforesaid, and that the said Mary Goodwin had not any other or more goods or chattels in your bailiwick whereof you could cause to be made the residue of the debt and damages aforesaid, or any part thereof; and whereas we have been given to understand that the said Mary Goodwin hath now goods and chattels in your bailiwick sufficient to satisfy the said Thomas the residue of the debt and damages aforesaid; we therefore command you, that of the goods and chattels of the said Mary in your bailiwick you cause to be made one hundred and forty-one pounds nine shillings and sixpence, the residue aforesaid, and that you have that money before-us at Westminster on next after to render to the said Thomas for the residue of his debt and damages aforesaid; and have you there then this writ. Witness, &c.

LEE.

GEORGE the Third, &c. to the sheriff of Yorkshire, greeting: Whereas we lately commanded Hugh Bethell, esquire, late sheriff of your county, that he should cause to be levied of the goods and chattels of John Addy in his bailiwick one hundred and four pounds debt which John Mort lately in our court before us at Westminster recovered against him as also sixty-three shillings which in our court before us were adjudged to the said John Mort for his damages which he had sustained as well by occasion of the detaining that debt as for his costs and charges by him about his suit in that behalf expended, whereof the said John Addy was convicted, as appears to us of record; and that he should have that money before us at Westminster on next after to render to the said John Mort for the debt and damages aforesaid; and whereas our said late sheriff of our county at that day returned to us, that by virtue of the said writ to him directed he had commanded the chief bailiff of the liberty of the town of Pontefract, in your county, who had the full execution of all writs, precepts, and process to be executed within that liberty, and the return thereof, to whom the execution of the writ wholly belonged, inasmuch as that he could not execute the same in the county out of the said liberty, which said chief bailiff, to wit, Richard Town, gentleman, had returned, that by a certain mandate by our said late sheriff to him directed he had made of the goods and chattels of the within-named John Addy thirty-seven pounds fifteen shillings and twopence, which said sum he had caused to be paid to the said John Mort, and further certified the within named John Addy had no other goods or chattels in his bailiwick whereof he could at present levy the remainder of the said debt and damages; therefore we command you, that you take the said John Addy if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at Westminster on next after

*Ca. sa. to the sheriff of Yorkshire to levy the residue in an action of debt alter a fi. fa. to him directed, and returned that he had caused part to be levied by the chief bailiff of the liberty of Pontefract, in his county, to whom the full execution of such process belonged.*

## WRITS FINAL.—TEST. ELEGIT.

to satisfy the said J. M. sixty-nine pounds seventeen shillings and tenpence, the residue of the debt and damages aforesaid; and have there then this writ. Witness, &c.

*Testatum elegit*  
out of Middle-  
sex into the  
county palatine  
of Lancaster, in  
assumpsit by bill.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: Whereas Thomas Fielding, lately in our court before us at Westminster, by bill, without our writ, and by the judgment of the same court, recovered against Thomas Rhodes fifty-three pounds for his damages which he sustained as well by occasion of the not performing certain promises and undertakings lately made by the said Thomas Rhodes to the said Thomas Fielding as for his costs and charges by him about his suit in that behalf expended, whereof the said Thomas Rhodes is convicted, as appears to us of record; and afterwards the said Thomas Fielding came in our court before us and chose to be delivered to him all the goods and chattels of the said Thomas Rhodes, except his oxen and beasts of his plough, and also a moiety of all and singular his lands and tenements, to hold to him the said goods and chattels, and also to hold the said moiety of the said lands and tenements to him and his assigns as his free tenements, according to the form of the statute in that case made and provided, until the damages aforesaid should be levied; and whereupon our sheriff of Middlesex hath certified to us at a certain day now past that the said Thomas Rhodes hath no goods or chattels, lands or tenements, in his bailiwick whereof he could cause to be satisfied the damages, costs, and charges aforesaid, whereas it is testified in our said court before us that the said Thomas Rhodes hath goods and chattels, lands and tenements, in our said county palatine whereof you may cause to be made the damages, costs, and charges aforesaid; therefore we command you, that by our writ under the seal of our said county palatine duly to be made out, and to be directed to the sheriff of the same county, you command the same sheriff, that without delay he cause all the goods and chattels of the said T. Rhodes in his bailiwick, except the oxen and beasts of his plough, and also a moiety of all the lands and tenements of the said Thomas Rhodes in his bailiwick, whereof the said Thomas Rhodes, on the twenty-first day of May, in the year of Our Lord 1763, on which day the said judgment was given, or at any time afterwards, was seized, to be delivered to the said Thomas Fielding at a reasonable price and extent, to hold to him the said goods and chattels, and also to hold the moiety of the said lands and tenements as his free tenement to him and his assigns, according to the form of the statute, until the damages, costs, and charges aforesaid shall be thereof fully levied, and that he make appear to us at Westminster on        next after        under his seal and the seals of those by whose oath he shall make the extent and appraisal, in what manner he shall have executed this our writ; and have there then this writ. Witness, &c.

GEORGE

GEORGE the Third, &c. to our chancellor of our county *T. B. f. s. out of*  
palatine of Lancaster, or to his deputy there, greeting: Whereas *Middlesex into*  
by our writ to you directed we lately commanded you, that by *Lancashire,*  
our writ under the seal of our said county palatine duly to be *grounded upon*  
made out, and to be directed to the sheriff of the same county, *the return of*  
you command the same sheriff, that he should cause to be levied *a former test. f. s.*  
of the goods and chattels of John Howard in his bailiwick fifty- *out of Mid-*  
six pounds ten shillings which to Isaac Henry, gentleman, were *dlesex into Lan-*  
awarded for his damages which he sustained as well on occasion of *cashire, B. R.*  
the not performing certain promises and undertakings made by  
the said John to the said Isaac as for his costs and charges by him  
about his suit in that behalf laid out, and that he should have that  
money before us at Westminster on next after to render  
to the said Isaac for his damages aforesaid, whereof the said John  
was convicted, as appears to us of record; forasmuch as our  
sheriff of Middlesex had thereupon certified to us at a certain day  
then past that the said John had no goods or chattels in his baili-  
wick whereof he could cause to be levied the damages, costs, and  
charges aforesaid, or any part thereof, and forasmuch as it was  
testified in our said court that the said John had sufficient goods  
and chattels in our said county palatine whereof the damages,  
costs, and charges aforesaid might be levied; and you at that day  
returned to us at Westminster, that by virtue of the said writ to  
you directed and delivered by another writ under the seal of the  
said county palatine accordingly directed to the sheriff of the same  
county, you commanded the same sheriff as by the said writ so to  
you directed you was commanded, and that the said sheriff, to  
wit, Thomas Brudyle, esquire, in answer thereto, had returned  
to you, that by virtue of the said writ to him directed he had  
caused to be levied of the goods and chattels of the said John one  
pound three shillings, and that he had the same money ready be-  
fore us at the day and place therein contained, as by the said writ  
he was commanded; and that the said John had no goods or chat-  
tels in his bailiwick whereby he could levy the residue of the da-  
mages and costs therein mentioned, or any part thereof, as by the  
same writ he was commanded; and the residue of the damages  
and costs aforesaid still remain unsatisfied: we therefore com-  
mand you, that by our writ under the seal of our said county pa-  
latine duly to be made out, and to be directed to the sheriff of the  
same county, you command the same sheriff, that he cause to be  
levied of the goods and chattels of the said John in his bailiwick  
fifty-five pounds seven shillings, being the residue of the damages  
and costs aforesaid, and that you have that money before us at  
Westminster on next after to render to the said Isaac for  
the said residue of the damages and costs aforesaid; forasmuch as  
the sheriff of Middlesex hath certified to us at a certain day  
now past that the said John hath no goods or chattels in his baili-  
wick whereof he can cause to be made the same, or any part  
thereof, and forasmuch as it is sufficiently testified in our said  
court before us that the said John hath sufficient goods and chat-  
tels

## WRITS.—SUBPENA—BAILABLE CAPIAS.

tels in our said county palatine whereof the said residue of the damages and costs aforesaid may be levied; and have you there then this writ. Witness William lord Mansfield, at Westminster, &c.

LEE.

*A subpoena duces  
tecum of a will  
in ejectment.*

GEORGE the Third, &c. to , greeting: We command and strictly enjoin you, that all other things being set aside, and every excuse ceasing, you be in your proper person before our justices assigned to hold assizes at New Sarum in and for the county of Wilts on the day of this instant July to testify the truth according to your knowledge in a certain action in our court before our justices at Westminster depending between A. B. plaintiff, and C. D. defendant, in a plea of trespass and ejectment, and at the aforesaid day to be tried by a jury of the county, and that you then and there bring, produce, and exhibit the original will of G. G. late of E. aforesaid, gentleman, deceased, bearing date the day of 1766; and hereof you are not to fail, on pain of one hundred pounds. Witness Bowles, the thirteenth of December 1795.

*apias  
sum  
an.*

GEORGE the Third, &c. to the sheriff of Lancashire, greeting: We command you, that you take John Harrocks, late of Quarlton, in your county, drover, and John Kay, late of Walmisley, in your county, yeoman, if they shall be found in your bailiwick, and them safely keep, so that you may have their bodies before our justices at Lancaster on Wednesday the seventh day of January next ensuing to answer George Weatherhead of a plea, wherefore with force and arms the close of the said George they did break, and other wrongs to him did, to the great damage of the said George, and against our peace, as it is said; and have you there this writ. Witness sir William Adams, knight, at Westminster, the sixteenth day of August, in the twenty-ninth year of our reign.

BOWLES.

Bail for ten pounds fourteen shillings severalty by attorney filed.

By virtue of this writ to me directed and delivered I have taken the within-named John Harrocks and John Kay, whose bodies I have ready before the justices within-named at the day and place within contained, as I am within commanded.

THO. JOHNSON, Esq. Sheriff.

om  
to  
af-  
.. on  
GEORGE the Third, &c. to our chamberlain of our county to palatine of Chester, or to his deputy there, greeting: Whereas we lately commanded our chancellor of our county palatine of Lancaster, that by our writ under the seal of our said county palatine in due manner to be made out, and to be directed to the sheriff of our said county palatine of Lancaster, he should com-  
mand

mand the said sheriff, that he should take William Acton if he should be found in his bailiwick, and him safely keep, so that he might have his body before us at a certain day now past to satisfy George Fletcher of seventeen pounds ten shillings which the said George lately in our court before us at Westminster recovered against the said William for his damages which he sustained as well by occasion of the not performing certain promises and undertakings made by the said William to the said George as for his costs and charges by him about his suit in that behalf laid out, whereof the said William is convicted, as appears to us of record; and our said chancellor of our said county palatine of Lancaster at that day returned to us that the said sheriff, in answer to the said writ to him directed, had returned to him our said chancellor that the said William was not found in his bailiwick, whereupon on the behalf of the said George it is sufficiently attested in our court before us that the said William runs up and down and secretes himself in your county; therefore we command you, that by our writ under the seal of our said county palatine duly to be made out, and to be directed to the sheriff of the same county, you command the said sheriff, that he take the said William Acton if he may be found in his bailiwick, and him safely keep, so that he may have his body before us at Westminster on next after to satisfy the said George of his damages aforesaid; and have you there this writ. Witness William lord Mansfield, at Westminster, the twenty-eighth day of November, in the seventeenth year of our reign. **LEE.**

GEORGE the Third, by the grace of God, of Great Britain, &c. to the sheriff of Wiltshire, greeting: We command you, that you take James Carter if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at Westminster on next after to satisfy sir Richard Bolt Hoare, baronet, ninety pounds debt which the said sir Richard lately in our court before us at Westminster recovered against him the said James as also ten pounds ten shillings which in our said court before us were adjudged to the said sir Richard for his costs and charges by him about his suit in that behalf expended, whereof the said James is convicted, as appears to us of record; and have you then there this writ. Witness Lloyd lord Kenyon, at Westminster, the day of , in the thirty-first year of our reign. *Ca. sa. on a judgment in debt on the statute for killing game. Double costs.*

This writ should correspond with the judgment.

GEORGE the Third, by the grace of God, &c. to the sheriff of Somersetshire, greeting: We command you, that you cause to be levied of the goods and chattels in your bailiwick of Wiltshire judgment for defendant in ejectment: as in case of a nonsuit for not going to trial according to rule of court, **LIAM**

William Maine twenty-five pounds which were awarded to Hannah Norman in our court before us at Westminster according to the form of the statute in such case made and provided, for her expences and costs which she had been put unto in her defence in a certain plea of trespass and ejectment prosecuted in our said court before us by the said William against the said Hannah, wherein the said William became nonsuit, whereof he is convicted, as appears to us of record; and have you that money before us at Westminster on Wednesday next after three weeks from the day of the Holy Trinity to render to the said H. for her expences and costs aforesaid; and have you there then this writ. Witness, &c.

*Fi. fa.* in an action by bill in assumpsit against the goods after defendant had been taken and committed on a *a. fa.* and discharged out of custody on the insolvent debtor's act, in Lancaster.

GEORGE the Third, by the grace of God, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: Whereas John Whitfield lately in our court before us at Westminster, by bill, without our writ, and by the judgment of the said court, recovered against Thomas Lowe, gentleman, one of the attornies of our court before us, the sum of seventy-two pounds for his damages which he had sustained as well by reason of the non-performance of certain promises and undertakings made by the said T. L. to the said J. W. as for his costs and charges by him about his suit in that behalf expended, whereof the said T. L. is convicted, as appears to us of record: And whereas though such judgment was given thereupon as aforesaid, and though the said T. L. was afterwards taken and detained in prison at the suit of the said J. W. in execution of the said judgment, yet the said T. L. was afterwards discharged out of such custody under and by virtue of a certain act of parliament passed in the thirty-second year of the reign of his late majesty king George the Second, intituled, "An Act for the Relief of Debtors, &c." [take the title verbatim from the act], and the said damages are still wholly unpaid: And whereas it is ordained by the said statute, that notwithstanding any discharge obtained by virtue thereof for the person of any such prisoner so discharged, the judgment obtained against him shall continue and remain in force and execution, and may at any time be taken out thereon against the lands, tenements, rents, or hereditaments, goods or chattels of any such prisoner (other than and except his wearing apparel and bedding for himself and family, and the necessary tools for the use of his trade or occupation, not exceeding ten pounds in value in the whole), as if he had never been before arrested, taken in execution, and released out of prison by virtue of or under the said act; we therefore command you, that by our writ under the seal of our said county palatine duly to be made out, and to be directed to the sheriff of the said county, you command the said sheriff, that he cause to be levied of the goods and chattels in his bailiwick of the said T. L. (other than and except his necessary wearing apparel and bedding for himself and family, and the necessary tools for the use

# PROCESS—(CAPIAS).—WRITS FINAL. TEST. CA.(a)

use of his trade and occupation, not exceeding ten pounds in value in the whole) the said sum of seventy-two pounds for the damages, costs, and charges aforesaid, so by the said J. W. recovered in manner and form aforesaid; and have the said money before us on Tuesday next after the morrow of All Souls to render to the said J. W. for his damages aforesaid; and have you there then this writ. Witness, &c.

GEORGE the Third, &c. to the sheriff of , greeting: We command you, that you take A. B. late of , in your county, upon a *præcipe* gentleman, if he shall be found in your bailiwick, and him safely keep, so that you may have him before us on *quod reddat, in* wherefo- *debt.* ever we shall then be in England to answer to C. D. in a plea that he render to the said C. D. pounds which he owes and unjustly detains, as it is said; and have you there then this writ. Witness , at Westminster, the day of , in the year of our reign.

[If not bailable, add notice as in common *latitat*, only after seventh November 1781 (or as the day is) add "wheresoever the lord the king shall then be in England," and leave out "at Westminster."]

GEORGE the Third, &c. to our chancellor of our county *Test. ca. and o-* palatine of Lancaster, or to his deputy there, greeting: We com- *original out of* mand you, that by our writ under the seal of our said county pa- *London into* latine duly to be made out, and to be directed to the sheriff of the *Lancaster, in* same county, you command the same sheriff, that he take A. B. *covenant on* late of , if he may be found in his bailiwick, and him safely *charter-party,* keep, so that he may have his body before *B. R.* wheresoever, &c. to answer C. D. in a plea that he keep with the said C. D. the covenant made between them, according to the force, form, and effect of a certain deed or charter party of affreightment thereof made between them, and unless, &c. and for that our sheriffs of London returned to us at a certain day now past that the said A. B. is not found in their bailiwick; whereupon on the behalf of the said C. D. it is sufficiently attested in our court before us that the aforesaid A. B. lurks and wanders up and down and secretes himself in our said county palatine; and have you there this writ. Witness, &c.

GEORGE the Third, &c. to the sheriff of , greeting: We command you, that you take C. D. if he may be found in *Capias on a* judgment *quod* you bailiwick, and safely keep him, so that you may have his *comput. et in an* body before us at Westminster on next after to account *action of acc-* with A. B. from the time that he became the bail of the said count. A. B. whereof the said C. D. is convicted; and that you have, &c. Witness, &c.

(a) Capias in Account.

GEORGE

## WRITS.—ATTACHMENTS:

**Attachment of** **GEORGE** the Third, &c. to the sheriff of , greeting :  
**contempt, C.B.** We command you, that you attach A. B. so that you have him  
 before our justices at Westminster on to answer C. D. of and  
 concerning those things which shall be then objected against him  
 on our behalf; and have you then there this writ. Witness, &c.

Indorsed by an order of court, dated , for the non pay-  
 ment of twenty pounds. You take the order to the prothono-  
 tary, who signs it on sight of the order. W. and B.

The sheriff can take no bail.

**Attachment a-** **GEORGE** the Third, &c. to the coroner of the city of ,  
**gainst the she-** greeting : We command you, that you attach A. B. and C. D.  
**riffs for not** sheriffs of our said city, so that you may have them before us at  
**bringing in the** Westminster on next after to answer to us for certain  
**body.** trespasses and contempts brought against them in our court before  
 us; and that you have then there this writ. Witness, &c.

By the Court, BURROW.

Indorsed by Rule of Court, H. Clerk in Court.

**Attachment a-** **GEORGE** the Third, &c. to the coroners of our county of  
**gainst the sheriff** Middlesex, greeting : We command you, that you attach A. B.  
**or not bringing** and C. D. knight, sheriff of our said county of Middlesex, so  
**in the body.** that you have them before our justices at Westminster to answer  
 for certain trespasses and contempts brought against him in our  
 court of the bench at Westminster aforesaid; and that you have  
 then there this writ. Witness, &c.

Indorsed by rule of court, dated the day of , between  
 E. F. plaintiff, and G. H. defendant, for not bringing into this  
 court the body of the defendant pursuant to a former rule.

November, &c.

W. and D.

**Testatum attach-** **GEORGE** the Third, &c. to the sheriff of , greeting :  
**ment of privi-** We command you, that you take A. B. so that you may have  
**lege, C. B.** him before our justices at Westminster to answer C. D. gen-  
 tleman, one of the attornies of the court of the bench, accord-  
 ing to the liberties and privileges of the same court for such at-  
 tornies and other ministers of the same bench from time out of  
 mind used and approved of in the same of a plea of trespass on the  
 case; *and whereupon the sheriff of Middlesex returned to our jus-*  
*ties at Westminster at a certain day now past that the said A. B. is*  
*not found in his bailiwick, whereas it is sufficiently testified in our*  
*court of the bench that the said A. B. lurks, lies hid, and wanders*  
*up and down in your county; and have you there this writ. Wit-*  
*ness, &c.*

**This is left out**  
**in common at-**  
**tachments.**

If bail, an at et am.

GEORGE

GEORGE the Third, &c. greeting: We command you, *Ca. fa. non* that you take A. C. widow, if she shall be found in your baili- *non suit, in tref* wick, and her safely keep, so that you may have her body be- *pass, C. B.* fore our justices at Westminster on the morrow of the Ascension of Our Lord to satisfy R. W. late of , in your county, gentleman, for , which in our court before our justices at Westminster were awarded to the said R. W. by the direction of our same justices at Westminster, according to the form of the statute in that case made and provided, for his expences and costs which he sustained by reason of the said A. C. not prosecuting her writ with effect in a certain plea of trespass sued out by the said A. C. against the said R. W. in our same court, whereof she is convicted; and have you there this writ. Witness, &c.

GEORGE the Third, &c. to the chancellor of our county *Capias ad satisfaciendum* palatine of Lancaster, or to his deputy there, greeting: We *on a* command you, that by our writ under the seal of our said county *non. prof. to Lan-* palatine duly to be made out, and to be directed to the sheriff of *caster, B. R.* the same county, you command the same sheriff, that he take W. H. if he may be found in his bailiwick, and safely keep him, so that you may have his body before us at Westminster on next after to satisfy J. B. for thirty-three shillings according to the form of the statute in such case made and provided adjudged to the said J. B. in our court before us for his costs and charges in a certain action against the said J. B. at the suit of the said R. W. in a plea of trespass, forasmuch as the said R. W. hath not prosecuted his said action; and have you there, &c. Witness, &c.

GEORGE the Third, &c. to the sheriff of , greeting: *Capias ad satisfaciendum* We command you, that you take J. W. the younger if he shall *at suit* be found in your bailiwick, and him safely keep, so that you may *of an executrix* have his body before us at Westminster on next after *after a seire facias* satisfy E. L. widow, executrix of the last will and testament of *cas and judgment revived, in* J. L. deceased, for eighteen pounds which the said J. L. in his *assumpsit, B. R.* lifetime lately in our court before us at Westminster recovered against the said J. W. for his damages which he had sustained as well by reason of the not performing several promises and undertakings lately made by the said J. W. to the said J. L. as for his costs and charges by him laid out about his suit in that behalf, whereof the said J. W. is convicted, as appears to us of record; and whereupon it is considered in our same court before us that the said E. L. have her execution against the said J. W. for the damage aforesaid by the default of the said J. W.; and have you, &c. Witness, &c.

GEORGE the Third, &c. to, &c.: We command you, that *Ca. fa. after non* you take A. B. late of , yeoman, if he shall be found in your *suit on a writ of* bailiwick, and him safely keep, so that you may have his body *error on a judgment in B. R.* before by original.

# WRITS FINAL.—CA. SA.

before us on                      wheresoever we shall then be in England, to answer D. E. widow, and executrix of the last will and testament of H. E. deceased, sixty-three pounds for her damages which she had sustained as well by occasion of not performing certain promises and undertakings made by the said A. B. to the said H. E. in his lifetime as for her the said D. E.'s costs and charges by her about her suit in that behalf laid out, whereof the said A. B. is convicted, as by inspection of the record and proceedings thereof, which by virtue of our writ for correcting error prosecuted by the said A. B. of and upon the premises we lately caused to be brought into our court before us, as it appeareth to us of record; and also seven pounds ten shillings which in our said court before us, according to the form of the statute in such case made and provided, were adjudged to the said D. E. for her costs and damages which she had sustained by reason of the delay of the execution of the said judgment by means of the prosecuting our said writ for correcting error prosecuted by the said A. B. of and upon the premises as aforesaid, whereupon the said A. B. is nonsuited, as it also appeareth to us of record; and have you there this writ. Witness, &c.

*Capias ad satisfaciendum in debt after judgment by warrant of attorney, R. R.*

GEORGE the Third, &c. to the sheriff of                      , greeting: We command you, that you take W. K. if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at Westminster on                      next after                      to satisfy B. B. of one hundred pounds debt which the said B. B. lately in our court before us recovered against him, and also sixty-three shillings which to the said B. B. in our same court before us were adjudged for his damages which he sustained as well by reason of the detention of that debt as for his costs and charges laid out by him about his suit in that behalf, whereof the said W. K. is convicted, as appears to us of record; and have you there this writ. Witness, &c.

*Ca. sa. upon a verdict for the plaintiff in assumpsit, R. R.*

GEORGE the Third, &c. to the sheriff of                      , greeting: We command you, that you take S. L. if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at Westminster on                      next after                      to satisfy R. C. of thirty pounds for his damages which he has sustained as well by reason of the not performing certain promises and undertakings made by the said S. L. to the said R. C. as for his costs and charges laid out by him about his suit in that behalf, whereof the said S. L. is convicted, as appears to us of record; and have you then there this writ. Witness, &c.

*Ca. sa. upon a verdict in tort, R. B.*

GEORGE the Third, &c. to the sheriff of                      , greeting: We command you, that you take W. C. if he shall be found in your                      your

your bailiwick, and him safely keep, so that you may have his body before our justices at Westminster on the morrow of the Holy Trinity to satisfy W. B. late of , in your county, esquire, and S. G. late of , esquire, for thirteen pounds ten shillings which to the said W. B. and S. G. in our court before our justices at Westminster, by the direction of our same justices, was adjudged for their costs and charges which they have sustained, for that the said W. C. a certain writ in a plea of trespass upon the case hath unjustly prosecuted against the said W. B. and S. G. as appears by a certain jury of the county thereupon taken; whereof he is convicted; and have you, &c. Witness, &c.

GEORGE the Third, &c. to, &c.: We command you, that *Ca. sa. on a non* you take T. M. if he shall be found in your bailiwick, and him *prof. for not de-* safely keep, so that you may have his body before our justices at *claring. in tres-* Westminster from the day of, &c. to satisfy J. W. late of *pafs, C. B.* , in your county, yeoman, A. E. late of , and H. H. late of , and K. H. his wife, of thirty-three shillings and fourpence which were adjudged to the said J. W. A. E. H. H. and K. H. his wife in our court before our justices at Westminster, through the direction of our said justices, for their costs and charges which they have sustained in a certain plea of trespass lately brought in our said court by the said T. M. against the said J. W. A. E. &c. and may according to the form of the statute in that case lately made and provided against parties plaintiffs who do not prosecute their writs in such like pleas, or should be precluded in the same, whereof the said T. M. is convicted; and have you there, &c. Witness, &c.

GEORGE the Third, &c. to, &c.: We command you, that *Ca. sa. at suit of* you take G. C. late of , clerk, if he shall be found in your *an executor of* bailiwick, and him safely keep, so that you may have his body *an executrix* before our justices at Westminster on next after to *after a sci. fa. to* satisfy M. R. executor of the last will and testament of D. Y. *revive, in debt,* deceased, who was executrix of G. H. deceased, as well a certain debt of four hundred pounds which the said James in his lifetime lately in our court before our justices at Westminster recovered against him, as also fifty pounds which in our said court were adjudged to the said James in his lifetime for his damages which he had sustained by reason of detaining the said debt, whereof the said George is convicted; and whereupon it is considered in our said court that the said M. R. have his execution against the said G. C. for the debt and damages aforesaid by the default of the said G. C.; and have you, &c. Witness, &c.

GEORGE.

WRITS TUNNEL—CH. 2A.

*Ca. fa. upon a non prof. for not entering issue, in case, C. B.* **GEORGE the Third, &c. to, &c.:** We command you, that you take T. M. if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our justices at Westminster from next after to satisfy J. M. late of , in the said county of , yeoman, of fifty-six shillings and eightpence which in our court before our justices at Westminster was adjudged to the said J. M. for his costs and charges which he hath sustained in a certain plea of trespass upon the case lately brought in our said court by the said T. M. against the said J. M. according to the form of the statute in that case lately made and provided against parties plaintiffs who do not prosecute their writs in such like pleas, or should be precluded in the same, whereof the said T. M. is convicted; and have you there, &c. Witness, &c.

*Ca. fa. in assumpsit against defendant in order to make bail, C. B.* **GEORGE the Third, &c. to, &c.:** We command you, that you take M. C. late of , in your county, yeoman, if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our justices at Westminster from in to satisfy M. J. for forty pounds which in our court before our justices at Westminster were adjudged to the said M. J. for his damages which he has sustained by reason of the said M. C. not performing several promises and undertakings made by the said M. C. to the said M. J. at , in your county, whereof he is convicted; and have you, &c. Witness, &c.

*Ca. fa. upon a non prof. for not entering the issue by original, in tort, C. B.* **GEORGE the Third, &c. to, &c.:** We command you, that you take T. M. if he shall be found in your bailiwick, so that you may have his body before our justices at Westminster from the day of Saint Michael in three weeks to satisfy J. M. late of , in the county of , yeoman, of fifty-six shillings and eightpence which in our court before our justices at Westminster were adjudged to the said J. M. for his costs and charges which he hath sustained in a certain plea of trespass on the case lately brought in our said court by the said T. M. against the said J. M. according to the form of the statute in that case lately made and provided against parties plaintiffs who do not prosecute their writs in such like pleas, or should be precluded in the same, whereof the said T. M. is convicted; and have you there this writ. Witness, &c.

*Ca. fa. in assumpsit against an attorney after judgment signed, C. B.* **GEORGE the Third, &c. to, &c.:** We command you, that you take P. M, gentleman, one of the attornies of our court of the bench at Westminster, if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our justices at Westminster to satisfy J. V. clerk, for fifty-five shillings and tenpence which in our court before our justices at Westminster

# WRITS FINAL.—TEST. CA. SA.—CA. SA.—

Westminster were adjudged to the said J. V. for his damages which he has sustained by reason of the said premises for the not performing several promises and undertakings made by the said P. M. to the said J. V. at \_\_\_\_\_, in your county, whereof he is convicted; and have, &c. Witnesses, &c.

GEORGE the Third, &c. to, &c.: Whereas we lately com- *Test. ca. sa. i.*  
manded our sheriff of M. that he should take A. H. esquire, if he *debt.*  
should be found in his bailiwick, and that he should safely keep  
him, so that he might have his body before us at W. at a certain  
day now past to satisfy M. S. of three hundred pounds debt which  
the said M. S. had lately in our court before us recovered against  
him, and also sixty-three shillings which to the said M. S. in our  
same court before us were adjudged for his damages which he had  
sustained as well by reason of the detention of that debt as for his  
costs and charges laid out by him about his suit in that behalf,  
whereof the said A. H. is convicted, as appears to us of record;  
and our said sheriff of Middlesex at that day returned to us that  
the aforesaid A. H. is not found in his bailiwick, whereupon on  
the behalf of the said M. S. it is sufficiently attested in our court  
before us that the said A. H. wanders about and lurks up and down  
in your county; therefore we command that you take the said  
A. H. if he shall be found in your bailiwick, and him safely keep,  
so that you may have his body before us at W. on \_\_\_\_\_ next after  
to satisfy the said M. S. his debt and damages aforesaid; and  
have you there, &c. Witnesses, &c.

GEORGE the Third, &c. to, &c.: We command you, that *Ca. sa. in assump.*  
you take M. B. if he shall be found in your bailiwick, and him *sic* after judg.  
safely keep, so that you may have his body before us at W. on \_\_\_\_\_ *ment and testatun*  
next after \_\_\_\_\_ to satisfy M. T. for sixteen pounds ten shil- *thereon.*  
lings which lately in our court before us were adjudged to the  
said M. T. for his damages which he has sustained as well by rea-  
son of the said M. B.'s not performing several promises and under-  
takings lately made by the said M. B. to the said M. T. as for his  
costs and charges laid out by him and about his suit in that behalf,  
whereof the said M. B. is convicted, as appears to us of record;  
and whereof our sheriff of \_\_\_\_\_ hath made a return to us at a cer-  
tain day now past that the said M. B. is not found in his bailiwick,  
whereas it is testified in our court before us that the said M. B.  
wanders up and down and secretes himself in your county; and  
have you there this writ. Witnesses, &c.

GEORGE the Third, &c. to, &c.: We command you, that *Ca. sa. in*  
you take M. P. late of \_\_\_\_\_, in your county, yeoman, if he shall *sic* upon  
be found in your bailiwick, and him safely keep, so that you may *ment*  
have his body before us wheresoever we shall then be in England *error.*  
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in three weeks from the day of Saint Michael to satisfy R. G. as well sixteen pounds ten shillings for damages which the said R. G. lately in our court before Alexander lord Loughborough and his brethren, justices of the bench, by our writ, and by the judgment of the same court, recovered against him as well by occasion of the not performing certain promises and undertakings to the said R. G. lately made by the said M. P. as for his costs and charges by him about his suit in this behalf expended, and also adjudged to the said R. G. in our court before us according to the form and effect of the statute in that case lately made and provided for his costs, charges, and damages which he has sustained by reason of the delay of execution of the aforesaid judgment on pretence of prosecuting our writ of error by the said M. P. unjustly executed of and upon the premises in our court before us, whereof the said M. P. is convicted, as by inspection of the record and proceedings thereon, which for certain causes we lately caused to be brought before us, appears of record; and whereupon in our same court before us it is considered that the said R. G. have his execution thereon; and have you then there, &c. Witness, &c.

*Test. ca. sa. at  
suit of an execu-  
tor of an execu-  
trix, C. B.*

GEORGE the Third, &c. to, &c.: We command you, that you take G. C. late of      if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our justices at W. from      to satisfy W. N. esquire, executor of the last will and testament of M. Y. widow, deceased, who was executrix of the last will and testament of J. Y. deceased, as well a certain debt of four hundred pounds which the said J. Y. in his lifetime in our court before our justices at W. against him recovered as also fifty shillings which in our said court were adjudged to the said J. Y. in his lifetime for his damages which he had sustained by reason of detaining the said debt, whereof the said George is convicted; and whereupon it is considered in our court that the said W. N. have his execution against the said G. for the debt and damages aforesaid by the default of the said G. and whereof our sheriff of      hath made a return to our justices at W. at a certain day now past that the said G. C. is not found in his bailiwick, whereas it is testified in our said court that the said G. C. wanders up and down and secretes himself in your county; and have you there this writ. Witness, &c.

*Test. ca. sa. in  
essuissit after a  
fi. fa. against an  
executrix, and  
nulla bona and  
decessavit re-  
turned, C. B.*

GEORGE the Third, &c. to, &c.: Whereas we lately commanded our late sheriff of      that he should cause to be made of the goods and chattels which were of H. M. deceased, at the time of his death in the hands and custody of M. M. late of      , in your county, widow, executrix of the last will and testament of the said H. her late husband, deceased, in his bailiwick, eighteen pounds which M. S. lately in our court before our justices at W.

recovered against her for his damages which he had sustained as well by reason of the non-performing several promises and undertakings lately made by the said H. M. in his lifetime to the said M. S. as for his costs and charges laid out by him about his suit in that behalf, if the said M. M. had so many goods and chattels which were of the said H. at the time of his death in her hands to be administered, and if she had not so many goods in her hands to be administered, then that he should cause nine pounds, part of the damages aforesaid, to be levied of the proper goods and chattels of the said M. and that he should have the said M. M. before our justices at W. on last past to be paid to the said M. S. for his damages aforesaid, whereof the said M. M. is convicted; and whereupon our said late sheriff at that day returned to our said justices at W. that the said M. M. had no goods and chattels which were of the said H. M. at the time of his death in her hands to be administered in his bailiwick whereof the said damages, or any parcel thereof, could be made or levied; and also that the said M. M. had not any of her own proper goods or chattels in his bailiwick whereof nine pounds of the said damages, or any part thereof, could be made or levied; and our said late sheriff returned that divers goods and chattels which were of the said H. M. at the time of his death to the value of the said damages came to the hands of the said M. M. after the death of the said H. M. to be administered, which same goods and chattels the said M. M. had eloiigned, wasted, and converted to her own proper use; therefore we command you, that you take the said M. M. if she may be found in your bailiwick, and that you safely keep her, so that you may have her body before our justices at W. in eight days of Saint Hilary to satisfy the said M. S. his damages aforesaid; and have, &c. Witness, &c.

GEORGE the Third, &c: Whereas [recite the *feri facias Test. ca. fa. de* and return exactly as in the last, till] had eloiigned, wasted, and against the executrix after the converted to her own proper use; and whereas we thereupon preceding *ca. fa.* commanded our sheriff of that he should take the said M. M. returned *non est.* if she might be found in his bailiwick, and that he should safely *inventus.* keep her, so that he might have her body before our said justices at W. in to satisfy the said M. S. his damages aforesaid; and whereupon our said sheriff of at that day returned to our said justices at W. that the said M. M. is not found in his bailiwick, whereas it is sufficiently attested in our said court that the said M. M. wanders up and down in your county; therefore we command you, that you take the said M. M. if she may be found in your bailiwick, and her safely keep, so that you may have her body before our justices at W. from the day of Easter in to satisfy the said M. S. his said damages; and have, &c. Witness, &c.

# WRITS FINAL.—DIFFERENT WRITS OF

*Capias ad satisfaciendum* on a judgment of nonsuit for not proceeding to trial, C. B.

GEORGE the Third, &c. to, &c. greeting: We command you, that you take J. M. gentleman, if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our justices at W. in eight days of Saint Hilary to satisfy M. A. late of , in your county, yeoman, for twenty pounds which were adjudged to the said M. A. in our court before our justices at W. by the directions of the same justices according to the form of the statute in that case made and provided for his costs and charges which he hath sustained, for that the said J. M. hath not prosecuted his writ by him the said J. M. obtained in our court against the said M. A. in a certain plea of debt upon demand, whereof the said J. M. is convicted; and have you, &c. Witnesses, &c.

*Ca. sa. on a non prof.* for want of plaintiff's replying to defendant's plea, B. R.

GEORGE the Third, &c. to, &c.: We command you, that you take J. S. if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at W. on next after to satisfy J. M. thirty-three shillings which to the said J. M. in our court before us at W. according to the form of the statute in such case made and provided were adjudged for his costs and charges by him sustained in and about his defence in a certain action of trespass on the case lately prosecuted in our same court before us against him by the said J. S. because the said J. S. did not afterwards prosecute that action, whereof the same J. S. is convicted, as appears to us of record; and have, &c.

*Ca. sa. after a non prof.* in error against an attorney on a judgment in C. B. and error brought in B. R. the plaintiff in error not having paid the transcript money, C. B.

GEORGE the Third, &c. to the sheriff, &c.: We command you, that you take R. S. one of the attorneys of our court of the bench at Westminster present here in court in his own proper person if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our justices at W. on next after , to satisfy J. W. for nineteen pounds ten shillings which in our court before our justices at W. were adjudged to the said J. W. for his damages which he has sustained by reason of the said R. S.'s not performing several promises and undertakings made by the said R. S. to the said J. W. at W. in your county, whereof the said R. S. is convicted, the issuing out the writ of error in any wise notwithstanding; and have you, &c. Witnesses, &c.

No costs till after the record is removed; that is, till after plaintiff in error has transferred.

*Ca. sa. for the effdue where part had been tried by a fi.* C. B.

GEORGE the Third, &c. to, &c.: Whereas we lately by our writ commanded you that you should cause to be levied of the goods and chattels of H. B. late of , yeoman, as well a certain debt of twenty-four pounds fifteen shillings and fourpence which

CA. SA;—TEST. CA. SA. &c.

which T. J. had recovered against him in our court before our justices at Westminster, and also fifty shillings which in our said court were awarded to the said T. J. for his damages which he sustained by reason of the detaining the said debt, and that you should have that money before our justices at Westminster in last past to render to the said T. J. for the debt and damages aforesaid, whereof the said H. B. is convicted; and whereupon you on that day returned to our justices at Westminster that by virtue of the said writ to you directed you had levied of the goods and chattels of the said H. B. the sum of , part whereof you had paid unto J. M. for three-quarters of a year's rent due to him as landlord of the premises whereon the said defendant's goods and chattels were seized and taken in execution, and you had, at the request of the said T. J. detained other part thereof for the discharge of the poundage and other expences of levying, and thirteen shillings and fourpence residue thereof you had paid to the said T. J. in satisfaction of so much of the debts and damages aforesaid; and you further certified, that the said H. B. had no other or more goods or chattels in your bailiwick whereof you could levy the residue of the debt and damages aforesaid, or any part thereof; therefore we command you, that you take the said H. B. if he shall be found in your bailiwick, and that you safely keep him, so that you may have his body before our justices at Westminster from the day of the Holy Trinity in three weeks to satisfy the said T. J. pounds, the residue of the debt and damages aforesaid; and have you there, &c. Witness, &c.

GEORGE the Third, &c. to our chancellor of our county *Test. ca. sa. from* palatine of Lancaster, or to his deputy there, greeting: Whereas *London to the* we lately commanded our sheriffs of L. that they should take J. S. *county palatine* if he might be found in their bailiwick, and him safely keep, so *of Lancaster* that they might have his body before our justices at Westminster *upon a nonsuit* at a certain day now past to satisfy T. F. late of , in the *in trespass for* county palatine of Lancaster, chapman, of pounds which to *not proceeding* the said T. F. in our court before our justices at Westminster, by *to trial, 14. Geo.* the direction of our same justices, according to the form of the *3. C. B.* statute in that case made and provided, were adjudged for his costs and charges which he had sustained, for that the said J. S. had not prosecuted his writ by him the said J. S. obtained in our said court against the said T. F. in a certain plea of trespass and assault, whereof the said J. S. is convicted; and our said sheriffs of London at that day returned to our said justices at Westminster that the said J. S. is not in their bailiwick, whereas it is sufficiently attested in our said court before our justices at Westminster that the said J. S. wanders up and down in your said county palatine of Lancaster; therefore we command you, that by our writ under the seal of our said county palatine of Lancaster duly made out, and to be directed to the sheriff of the same county, you command the same sheriff that he may take the said J. S. if he shall be found

## WRITS FINAL.—DIFFERENT WRITS OF CA. SA.—

found in his bailiwick, and him safely keep, so that he may have his body before our justices at Westminster on next after to satisfy the said T. F. his costs and charges afore said; and have you, &c. Witness, &c.

*Ca. sa. on a non-suit on a writ of error in exchequer on judgment by bill, B.R. in assumpsit.*

GEORGE the Third, &c. to, &c.: We command you, that you take J. S. if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at Westminster on Tuesday next after to satisfy F. G. as well pounds which the said F. G. lately in our court before us at Westminster recovered against him for his damages which he had sustained as well by reason of the non-performance of certain promises and undertakings by the said J. S. to the said F. G. lately made as for his costs and charges by him about his suit in that behalf expended. whereof the said J. S. is convicted, as appears to us of record; and also pounds which to the same F. G. in our exchequer chamber before our justices of the bench and the barons of our exchequer of the degree of the coif there, according to the form of the statute lately made and provided, were adjudged for his damages, costs, and charges which he had sustained and expended by reason of the delay of execution of the judgment afore said by means of prosecuting our writ of error by him the said J. S. of and upon the judgment afore said prosecuted, whereupon the said J. S. is nonsuited, and whereof he is likewise convicted, as by the inspection of the record and proceedings thereof from the court of exchequer chamber afore said into our said court before us, according to the form of the statute afore said, remitted, and in our same court before us now remaining in all things affirmed, appears to us likewise of record; and have you, &c. Witness, &c.

*Ca. sa. on a judgment affirmed in exchequer after writ of error, the judgment being by bill, B.R. in assumpsit.*

GEORGE the Third, &c. to, &c.: We command you, that you take J. B. if she shall be found in your bailiwick, and her safely keep, so that you may have her body before us at Westminster on next after to satisfy W. V. as well twenty-nine pounds which the said W. V. lately in our court before us at Westminster recovered against her for his damages which he had sustained as well by reason of the non-performance of certain promises and undertakings by the said J. B. to the said W. V. lately made as for his costs and charges by him about his suit in that behalf expended, whereof the said J. B. is convicted, as appears to us of record; and also pounds which to the same W. V. in our exchequer chamber before our justices of the bench and the barons of our exchequer of the degree of the coif there, according to the form of the statute lately made and provided, were adjudged for his damages, costs, and charges which he had sustained and expended by reason of the delay of execution of the judgment afore said by pretence of prosecuting our writ of error by her the said J. B. of and upon the judgment afore said prosecuted, whercon

whereon that judgment was in the same court afterwards affirmed, whereof the same J. B. is convicted, as by the inspection of the record and proceedings thereof from the said court of exchequer chamber aforesaid in our said court before us, according to the form of the statute aforesaid, remitted, and in our said court before us now remaining in all things affirmed, appears likewise to us of record; and have you there, &c. *Witness, &c.*

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: Whereas *Test. ca. sa. 9* *gaunt bail from* we lately commanded our sheriff of Middlesex; that of the goods *Middlesex to* and chattels of J. P. and J. F. the bail of J. M. in his bailiwick, *Lancaster after* *fi. sa. in Mid-* he should cause to be made which A. B. lately in our court *dlex and test.* before us at W. recovered against the said J. M. for a debt, and *fi. sa. into Lan-* also which to the said A. B. lately in our same court before us *calter and ca.* at Westminster were adjudged for her damages which she had sus- *sa. into Middle-* tained as well on occasion of the detaining that debt as for her costs *sex, B. R. in* and charges by her laid out about her suit in that behalf, whereof *debt.* the said J. M. has been convicted, as appears to us of record; and whereof in our same court before us at Westminster it is considered that the aforesaid A. B. have execution against the said J. P. and J. F. for the debt and damages aforesaid, according to the force, form, and effect of a certain recognizance by them the said J. P. and J. F. in our said court before us for the said J. M. at the suit of the said A. B. in the suit aforesaid acknowledged, as it likewise appears to us of record; and that the said sheriff should have that money before us at Westminster at a certain day now past to render to the said A. B. for her debt and damages aforesaid; and our said sheriff of Middlesex at that day returned to us that the aforesaid J. P. and J. F. had not, nor had either of them any goods and chattels in his bailiwick whereof he could cause to be made the debt and damages aforesaid, or any part thereof: And whereas we lately commanded you, that by our writ under the seal of our said county palatine duly to be made out, and to be directed to the sheriff of the same county, you should command the same sheriff, that of the goods and chattels of the said J. P. and J. F. in his bailiwick he should cause the said debt and damages to be made and levied, so that you might have that money before us at Westminster on next after to be rendered to the said A. B. for the debt and damages aforesaid; and whereupon you the said chancellor at that day returned to us, that by virtue of the said writ to you directed by another writ under the seal of the said county palatine directed to the sheriff of the same county you command the said sheriff as therein you was commanded, who in answer to the said writ said that the within-named J. P. and J. F. had not, nor had either of them any goods or chattels within his bailiwick whereby or whereout he could levy the debt and damages aforesaid, or any part thereof: And whereas we lately commanded our sheriff of Middlesex that he should take the aforesaid J. P. and

## WRITS FINAL.—DIFFERENT

J. F. if they should be found in his bailiwick, and them safely keep, so that he might have their bodies before us at Westminster at a certain day now past, to satisfy the said A. B. of the debt and damages aforesaid, and whereupon our said sheriff of Middlesex at that day returned to us, that the aforesaid J. P. and J. F. were not, nor were either of them found in his bailiwick, whereupon it is sufficiently testified in our said court before us, that the aforesaid J. P. and J. F. do lurk and wander up and down in our said county palatine; therefore we command you, that by our writ, under the seal of our said county palatine to be made out, and to be directed to the sheriff of the same county, you command the same sheriff that he take the aforesaid J. P. and J. F. if they shall be found in his bailiwick, and them safely keep, so that you may have their bodies before us at Westminster on next after to satisfy the said A. B. for the debt and damages aforesaid, according to the force, form, and effect of the recognizance aforesaid; and have you, &c. Witness, &c.

*Co. fa.* against  
bail after plead-  
ing to the *sci. fa.*

GEORGE the Third, &c. to, &c. We command you, that you take J. H. of in your county, of , yeoman, and K. N. of , yeoman, the bail of A. B. if they may be found in your bailiwick, and them safely keep, so that you may have their bodies before us at Westminster, on next after , to satisfy L. D. the elder, , which the said L. D. hath lately recovered against the said A. B. in our said court before us for his damages by him sustained, as well on occasion of the non-performing of certain promises and undertakings made by the said A. B. to the said L. D. as for his costs and charges by him laid out about his suit in that behalf, whereof the said A. B. hath been convicted, as appears to us of record, and whereupon it has been considered in our said court before us at Westminster, that the said L. D. should have his execution against the said J. H. and K. N. for the damages, costs, and charges aforesaid, according to the force, form, and effect of a certain recognizance by them the said J. H. and K. N. in our said court before us at Westminster aforesaid for the said A. B. at the suit of the said L. D. in the suit aforesaid acknowledged by the default of them the said J. H. and K. N. as it likewise appears to us of record, and also to satisfy the said L. D. for his damages, costs, and charges which the said L. D. hath had and been put unto on occasion of the said J. H. and K. N. they having pleaded to our writ of *scire facias* sued out against them at the suit of the said L. D. in that behalf, whereof the said J. H. and K. N. have been convicted, as also appears to us of record; and have you, &c. Witness, &c.

*fa. after*  
gment in the  
e's bench,  
B. R.

GEORGE the Third, &c. to, &c. Whereas we lately com-  
manded our sheriff of Middlesex that he should take R. C. and  
affirmed in the exchequer chamber and the house of lords, at the suit of an attorney

J. C.

J. C. if they should be found in his bailiwick, and that he should safely keep them, so that he might have their bodies before us at a certain day now past, to satisfy H. I. gentleman, one of the attornies of our court before us, according to the liberties and privileges of the same court used and approved therein for such attornies from time whereof the memory of man is not to the contrary, as well , which they the said H. I. had lately in our court before us at Westminster by bill without our writ, and by the same court recovered against them for his damages which he had sustained, as well by reason of a certain plea of trespass on the case, as for his costs and charges by him about his suit in that behalf expended, whereof the said R. C. and J. C. were convicted, as appeared to us of record, and also of , which to the said H. I. in our court of exchequer chamber before our justices of our common bench, and our barons of our exchequer of the degree of the coif there, according to the form of the statute lately made and provided, were adjudged for his damages, costs, and charges which he had sustained and expended by reason of the delay of the execution of the judgment aforesaid, by pretence of prosecuting our writ of error by them the said R. C. and J. C. of and upon the judgment aforesaid prosecuted, whereon that judgment was in the same court afterwards affirmed; and whereof the said R. C. and J. C. were convicted, as by the inspection of the record and proceedings thereof from the said court of exchequer chamber aforesaid, assigned into our said court at Westminster aforesaid, according to the form of the statute aforesaid remitted, and in our said court before us at Westminster then and still remaining in all things affirmed, as appeareth likewise to us of record; as also , which to the said H. I. in our court of parliament before us and the lords spiritual and temporal in parliament assembled, according to the form of the statute in such case made and provided, were adjudged to the said H. I. for his damages, costs, and charges which he had sustained by reason of the further delay of execution of the judgment aforesaid, by pretence of prosecuting our writ of error by them the said R. C. and J. C. of and upon the judgment aforesaid, and affirmance thereof as aforesaid, in our said court of parliament, which by our said court of parliament is in all things affirmed, whereof the said R. C. and J. C. are convicted, as by the inspection of the record and proceedings thereof from our said court of parliament into our said court before us at Westminster remitted, as appears likewise to us of record; and our said sheriff of Middlesex hath returned to us, that the said R. C. and J. C. were not, nor was either of them to be found in his bailiwick, whereupon on the behalf of the said H. I. it is sufficiently attested in our court before us, that the said R. C. and J. C. wander about, and lurk up and down, and secrete themselves in your bailiwick; therefore we command you, that you take R. C. and J. C. if they shall be found in your bailiwick, and them safely keep, so that you may have their bodies before us at Westminster on next after , to satisfy the said H. I. of his damages, costs, and charges aforesaid, accord-

ing to the form and effect of the recovery aforesaid; and have you,  
&c. Witnesses, &c.

*Ca. sa* upon an *affirmance* of a *judgment* in *parliament* by *surviving* part-  
ner. GEORGE the Third, &c. to, &c. We command you, that you take R. Y. late of , if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us on the morrow of All Souls, wheresoever we shall be in England, to satisfy A. H. and L. G. who survived W. G. their late partner in trade, deceased, as well , which the said A. H. and L. G. lately in our court before us at Westminster, by our writ, and by the judgment of the same court recovered against him for their damages which they had sustained, as well by reason of the non-performance of certain promises and undertakings made to them by the said R. Y. and one P. M. which said P. M. by the course of law has been outlawed at the suit of the said A. H. and L. G. survivors as aforesaid, and still remains so outlawed, as for their costs and charges by them about their suit in that behalf expended, whereof the said R. Y. is convicted, as appears to us on record, as also , which to the said A. H. and L. G. in our court of parliament before us and the lords spiritual and temporal in parliament assembled, according to the form of the statute in such case made and provided, were adjudged for their damages, costs, and charges which they have sustained by reason of the delay of execution of the judgment aforesaid, by pretence of prosecuting our writ of error by him the said R. Y. of and upon the judgment aforesaid in our said court of parliament prosecuted, and which judgment by our said court of parliament is in all things affirmed, whereof the said R. Y. is convicted, as by the inspection of the record and proceedings thereof from our said court of parliament into our said court before us at Westminster remitted, appears likewise to us of record; and have, &c.

*Ca. sa* on *affirmance* of *judgment* in *error*, from *C. B.* to *B. R.* GEORGE the Third, &c. to, &c. We command you, that you take A. B. late of , if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us , wheresoever we shall then be in England, to satisfy W. F. as well which the said W. F. lately in our court before Alexander lord Loughborough and his companions then justices of our court of C. B. recovered for his damages which he had sustained, as well by reason of the non performance of certain promises and undertakings then lately made by the said A. B. to the said W. F. as for his costs and charges by him about his suit in that behalf expended, whereof the said A. B. was convicted, as appears to us of record, as also , which to the same W. F. in our court before us, according to the form of the statute in such case made and provided, were adjudged for his damages, costs, and charges which he had sustained and expended by reason of the delay of execution of the judgment aforesaid, by means of prosecuting our writ of error by him

him the said A. B. of and upon the judgment aforesaid prosecuted, whereon the said judgment was in our said court before us afterwards affirmed, and whereof the said A. B. is convicted, as by the record and proceedings now remaining in our said court before us more fully appears; and have, &c. Witness, &c.

GEORGE the Third, &c. to, &c. Whereas we lately com- *Testatum ca. fa.*  
manded our sheriffs of London, that of the goods and chattels in *alter fieri facias,*  
their bailiwick of A. B. late of , if they should cause to be *and part levied,*  
made , which to C. D. in our court before our justices at *and nulla bona*  
Westminster were adjudged for his damages which he had sus- *as to the residue,*  
tained, as well by reason of a certain plea of trespass upon the case, *in case.*  
as for his costs and charges by him laid out about his suit in that behalf expended, whereof the said A. B. was convicted, as appeared to us of record; and that the sheriffs of London should have that money before our justices at Westminster at a certain day then past, to render to the aforesaid C. D. for his damages aforesaid; and whereas our said sheriffs of London at that day certified to our said justices at Westminster, that the said A. B. had no goods or chattels in their bailiwick whereof the damages aforesaid, or any part thereof, could be made or levied, and it being testified in our same court that the said A. B. had sufficient goods and chattels in the bailiwick of our sheriff of Middlesex whereof the damages aforesaid might be made and levied, we lately commanded our said sheriff of Middlesex, as we had before commanded him, that of the goods and chattels of the within-named A. B. in his bailiwick, he should cause to be made and levied the damages aforesaid; and that he should have the money before our justices at Westminster at a certain day therein mentioned and now past, to render to the said C. D. for the damages aforesaid; and whereupon T. W. esquire, and M. P. esquire, our said sheriff of the county of Middlesex at that day returned to our justices at Westminster, that by virtue of that writ to him directed, he caused to be made of the goods and chattels of the within-named A. B. in his bailiwick, pounds, part thereof, he had necessarily expended in the seizing, appraising, keeping, preparing for sale, and selling the said goods and chattels, and residue thereof he had before his majesty's justices at the day and place within mentioned ready to pay to the within-named C. D. in satisfaction of so much of his damages within mentioned; and he further certified, that the said A. B. had not any other or more goods or chattels in his said bailiwick, whereof he could cause to be levied the residue of the said damages, or any part thereof; and whereas we lately commanded our sheriffs of London, that they should take the said A. B. if he might be found in their bailiwick, and him safely keep, so that they might have his body before our justices at Westminster at a certain day now past, to satisfy the said C. D. the residue of the damages aforesaid; and our said sheriffs of London at that day returned to our said justices at Westminster, that the said A. B. was not found in their bailiwick; whereas it is sufficiently attested  
in

in our court before our justices at Westminster, that the said A. B. wanders up and down in your said county; therefore we command, that you take the said A. B. if he may be found in your bailiwick, and him safely keep, so that you may have his body before our justices at Westminster in , to satisfy the said C. D. the residue of the damages aforesaid; and have you, &c. Witnesses, &c.

*Ca. sa. against  
bail, after plead-  
ing to si. fa.*

GEORGE the Third, &c. to, &c. We command you, that you take A. B. of , and C. D. of , the bail of E. F. if they may be found in your bailiwick, and them safely keep, so that you may have their bodies before us at Westminster on next after , to satisfy G. H. which the said G. H. hath lately recovered against the said E. F. in our said court before us for his damages by him sustained, as well on occasion of the not performing certain promises and undertakings made by the said E. F. to the said G. H. as for his costs and charges by him laid out about his suit in that behalf, whereof the said E. F. hath been convicted, as appears to us on record; and whereupon it hath been considered in our said court before us at Westminster, that the said G. H. should have his execution against the said A. B. and C. D. in our said court before us at Westminster aforesaid, for the damages, costs, and charges aforesaid, according to the force, form, and effect of a certain recognizance, by them the said A. B. and C. D. in our said court before us at Westminster for the said E. F. at the suit of the said G. H. in the suit aforesaid acknowledged by the defendant of them the said A. B. and C. D. as it likewise appears to us on record; and also to satisfy the said G. H. for his damages, costs, and charges which the said G. H. hath had and been put unto on occasion of the said A. B. and C. D. their having pleaded to our writ of *scire facias* sued out against them at the suit of the said G. H. in that behalf, whereof the said A. B. and C. D. have been convicted, as also appears to us on record; and have, &c. Witnesses, &c.

*Post. ca. sa. af-  
ter judgment in  
C. B. affirmed  
in the exchequer  
chamber and in  
the house of  
lords.*

GEORGE the Third, &c. to, &c. Whereas we lately commanded our sheriff of Middlesex, that he should take A. B. and C. D. if they should be found in his bailiwick, and that he should safely keep them, so that they might have their bodies before us at Westminster, at a certain day now past, to satisfy T. W. gentleman, one of the attorneys of our court before us, according to the liberties and privileges of the same court used and approved therein for such attorneys, from time whereof the memory of man is not to the contrary, as well which the said T. W. had lately in our court before us at Westminster, by bill without our writ, and by the judgment of the same court recovered against them for his damages which he had sustained, as well by reason of a certain plea of trespass on the case, as for his costs and charges by him about his suit in that behalf expended, whereof the said A. B. and C. D.

C. D. were convicted, as appeared to us of record; as also of which to the said T. W. in our court of exchequer chamber before our justices of our C. B. and our barons of our exchequer, of the degree of the coif there, according to the form of the statute lately made and provided, were adjudged for his damages, costs, and charges which he had sustained and expended by reason of the delay of execution of the judgment aforesaid, by pretence of prosecuting our writ of error by them the said A. B. and C. D. of and upon the judgment aforesaid prosecuted, whereon that judgment was in the same court afterwards affirmed, and whereof the said A. B. and C. D. were convicted, as by the inspection of the record, and proceedings from the said court of exchequer chamber aforesaid, assembled into our said court before us at Westminster aforesaid, according to the form of the statute aforesaid remitted, and in our said court before us at Westminster then and still remaining, in all things affirmed, as appeared likewise to us of record, as also which to the said T. W. in our court of parliament, before us and the lords spiritual and temporal in parliament assembled, according to the form of the statute in such case made and provided, were adjudged to the said T. W. for his damages, costs, and charges which he had sustained by reason of the further delay of execution of the judgments aforesaid, by pretence of prosecuting our writ of error by them the said A. B. and C. D. of and upon the judgment and affirmance thereof as aforesaid in our said court of parliament, and which by our said court of parliament is in all things affirmed, whereof the said A. B. and C. D. are convicted, as by the inspection of the record and proceedings thereof from our said court of parliament into our said court before us at Westminster remitted, as appeared likewise of record; and our said sheriff of Middlesex hath returned, that the said A. B. and C. D. were not, nor was either of them to be found in his bailiwick, whereupon on the behalf of the said T. W. it is sufficiently testified in our court before us, that the said A. B. and C. D. wander about, and lurk up and down, and secrete themselves in your bailiwick; therefore we command you, that you take the said A. B. and C. D. if they may be found in your bailiwick, and them safely keep, so that you may have their bodies before us at Westminster, on next after to satisfy the said T. W. of his damages, costs, and charges aforesaid, according to the form and effect of the recoveries aforesaid; and have, &c. Witness, &c.

GEORGE the Third, &c. to, &c. We command you, that you take A. B. late of if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us on next after wheresoever we shall then be in England, to satisfy C. D. who survives E. F. his late partner in trade, &c. as well which the said C. D. lately in our court before us at Westminster, by our writ, and by the judgment of the same court recovered against him for his damages which he hath sustained, as well by

*Ca. sa. upon an affirmance of judgment in parliament by surviving party.*

by reason of the non-performing of certain promises and undertakings made to him by the said A. B. and one G. H. which said G. H. by the course of law has been outlawed at the suit of the said C. D. survivor as aforesaid, and still remains so outlawed, as for his costs and charges by him about his suit in that behalf expended, whereof the said A. B. is convicted, as appears to us on record, as also which to the same C. D. in our court of parliament before us and the lords spiritual and temporal in parliament assembled, according to the form of the statute in such case made and provided, were adjudged for their damages, costs, and charges which they have sustained by reason of the delay of execution of the judgment, by pretence of prosecuting our writ of error by him the said A. B. of and upon the judgment aforesaid in our said court of parliament prosecuted, and which judgment by our said court of parliament is in all things affirmed, whereof the said A. B. is convicted, as by the inspection of the record and proceedings thereof from our said court of parliament into our said court before us at Westminster remitted, appears likewise to us on record; and have you, &c. Witness, &c.

*Test. ca. sa. from  
Lancaster into  
Burry, in af-  
sumptu, in B. R.*

GEORGE the Third, &c. to, &c. Whereas, we lately commanded our chancellor of our county palatine of Lancaster, that he by virtue of our writ to him directed should by another writ, under the seal of our said county palatine of Lancaster to be duly made out, and to be directed to the sheriff of the said county palatine, command the said sheriff that he should take T. P. if he should be found in his bailiwick, and him safely keep, so that he might have his body before us at Westminster at a certain day now past, to satisfy J. B. for his damages which he had sustained, as well by reason of the not performing certain promises and undertakings made by the said T. P. to the said J. B. as for his costs and charges laid out by him in and about his suit in that behalf, whereof the said T. P. was convicted, as appears to us on record; and that he should have that money before us at Westminster at a certain day now past, to be rendered to the said J. B. for his damages aforesaid; and our said chancellor of our said county palatine duly made out, and directed to the sheriff of the same county, commanded the same sheriff, as by our writ he was commanded, and which said sheriff returned to our said chancellor, that the said T. P. was not found in his bailiwick; whereupon on the behalf of the said J. B. it is sufficiently attested in our court before our said justices at Westminster, that the said T. P. wanders about, and lurks up and down, and secretes himself in your county; therefore we command you, that you take the said T. P. if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at Westminster on next after to satisfy the said J. B. his damages aforesaid; and have you, &c. Witness, &c.

GEORGE

GEORGE the Third, &c. to the sheriffs of London, greeting: Whereas we lately commanded our sheriff of Middlesex, <sup>Test. ca. sa. by administrators</sup> that he should take B. P. late of , if he should be found in his bailiwick, and him safely keep, so that he might have his body before our justices at Westminster at a certain day now past, to satisfy T. W. and R. B. administrators, &c. of A. K. deceased, <sup>after plea to sci. fa. and judgment thereon, in C. B.</sup> at the time of his death, with the will of the said A. K. annexed, as well which the said A. K. in his lifetime lately in our court before our justices at Westminster recovered against the said B. P. for his damages which he had sustained by reason of a certain trespass upon the case then lately committed by the said B. P. against the said A. K. as also for his costs and charges by him laid out about his suit in that behalf, whereof the said B. P. has been convicted, as appears to us on record; and whereupon it is considered in our same court before our said justices, that the said T. W. and R. B. administrators as aforesaid, should have their execution against the said B. P. for the damages, costs, and charges aforesaid, whereof the said B. P. was convicted, as also , which to the said T. W. and R. B. lately in our court before our justices at Westminster were adjudged to them according to the form of the statute in that case made and provided, by reason of the said B. P. having pleaded to our writ of *scire facias*, sued out by the said T. W. and R. B. as administrators as aforesaid against the said B. P. to shew if he had or could say any thing why the said T. W. and R. B. should not have execution against him for the damages, costs, and charges aforesaid, according to the force, form, and effect of the aforesaid recovery, and upon which the said T. W. and R. B. have recovered judgment against the said B. P. in our same court before our justices at Westminster, as appear to us on record; and our said sheriffs of London at that day returned to our justices at Westminster, that the said B. P. was not found in their bailiwick; whereas it is sufficiently certified in our court before our justices at Westminster, the said B. P. wanders about, and larks up and down, and secretes himself in your bailiwick; therefore we command you, that you take the said B. P. if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our justices at Westminster, on next after to satisfy the said T. W. and R. B. for their damages, costs, and charges aforesaid; and have you, &c. Witness, &c.

GEORGE the Third, &c. to our chancellor of our county <sup>Test. ca. sa. from Chester</sup> palatine of Lancaster, or to his deputy there, greeting: Whereas we lately commanded our chamberlain of our county palatine of <sup>into Lancaster, in E. R.</sup> Chester, that he by virtue of our writ to him directed should by another writ under the seal of our said county palatine of Chester to be duly made out, and to be directed to the sheriff of the said county palatine, command the said sheriff that he should take A. B. if he might be found in his bailiwick, and him safely keep, so that he might have his body before us at Westminster on a certain

WRITS FINAL.—CA. SA.—TEST. CA. SA.—

a certain day now past, to satisfy C. D. of for his damages which he had sustained, as well by reason of the not performing certain promises and undertakings made by the said A. B. to the said C. D. as for his costs and charges laid out by him about his suit in that behalf, whereof the said A. B. was convicted, as appears to us on record; and our said chamberlain of our said county palatine of Chester, at that day returned to us at Westminster, that the said A. B. is not found in his bailiwick, whereas it is sufficiently attested in our said court before us at Westminster, that the said A. B. lurks and wanders up and down in your said county of Lancaster; therefore &c. that by our writ, &c. you command the same sheriff, that he, &c. if he, &c. and him, &c. so that, &c. before us on next after , to satisfy the said C. D. for his damages aforesaid; and have you, &c. Witness, &c.

*Ca. sa. into  
Lancaster in  
trespasses, in C.B.*

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster: We command you, that by our writ, &c. you command the same sheriff that he, &c. A. B. late of, &c. if &c. and him, &c. so that, &c. before our justices at Westminster on next after , to satisfy C. D. for which lately in our court before our justices at Westminster were adjudged to the said C. D. for his damages which he had sustained, as well by reason of certain trespasses, &c. on the said C. D. by the said A. B. lately done and committed, as for the costs and charges of the said C. D. by him about his suit in that, &c. whereof the said A. B. is convicted, as appears to us on record; and have you, &c. Witness, &c.

*Test. ca. sa. in  
debt into Lan-  
castre, in B.R.*

GEORGE the Third, by the grace of God, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: We command you, that by our writ under the seal of our said county palatine to be duly made out, and to be directed to the sheriff of the said county palatine, you command the said sheriff that he take James C. and James W. if they shall be found in his bailiwick, and them safely keep, so that you may have their bodies before us at Westminster on Friday next after the morrow of All Souls, to satisfy Richard B. of five hundred pounds debt, which the said Richard lately in our court before us at Westminster recovered against them, and also eleven pounds ten shillings, which in our said court before us were adjudged to the said Richard for his damages which he had sustained, as well by occasion of the detaining that debt, as for his costs and charges by him about his suit in this behalf expended, whereof the said James C. and James W. are convicted, as appears to us of record, and for that our sheriffs of London, at a certain day now past, returned to us that the aforesaid James C. and James W. are not found in their bailiwick, whereupon on the behalf of the said

And Richard it is sufficiently attested in our court before us at Westminster, that the said James C. and James W. do wander up and down, and secrete themselves in our said county palatine; and have you there then this writ. Witnesses Lloyd lord Kenyon, &c. M. and WAY.

GEORGE the Third, &c. to the sheriff of Yorkshire, greet-<sup>Fr. fa. in pro-</sup>ing: We command you, that you levy of the goods and chattels <sup>habitation, in B. B.</sup> of W. D. clerk, curate of sequestrator of the vicarage of Bishop Wilton in your county in your bailiwick, pounds, which J. R. who sues as well for us as for himself lately recovered in our court before us, for his costs and charges expended and laid out by him about his suit in a plea, wherefore the said W. D. prosecuted a plea in court christian against the said J. R. after our prohibition to the contrary thereof, and whereof the said W. D. is convicted, as appears to us on record; and have you that sum of money before us at Westminster on , to render to the said J. R. who sues as well for us as for himself, as for his costs and expences aforesaid; and have you, &c. Witnesses, &c.

GEORGE the Third, &c. to, &c. We command you, <sup>Fr. fa. on a</sup> that you levy or cause to be levied of the goods and chattels in <sup>not suit, in C. B.</sup> your bailiwick of H. C. which in our court before our justices was awarded to R. A. late of , by the direction of the same justices, according to the form of the statute in that case made and provided, for his expences and costs which he had sustained by reason of the said H. C. not prosecuting his writ with effect in a certain plea of trespass on the case laid out by him against the said R. A.; and have you the monies before our justices at Westminster on , to render to the said R. A. for his expences and costs, whereof the said H. C. is convicted; and have you, &c. Witnesses, &c.

GEORGE the Third, &c. to, &c. We command, &c. <sup>Fr. fa. against</sup> cause, &c. of the goods and chattels which were of T. A. de- an administra- ceased, at the time of his death, who died intestate as it is laid in <sup>trix upon judg-</sup> the hands of A. A. late of , widow, administratrix of, &c. <sup>ment entered</sup> which were of the said T. A. being in your bailiwick, as well a <sup>upon executory</sup> certain debt of , which W. M. gentleman, in our court <sup>confessed by</sup> before our justices at Westminster hath recovered against her, as <sup>warrant of re-</sup> also , which were adjudged to the said W. M. in our same court for his damages which he hath sustained by reason of detain- ing that debt, if the said A. A. hath so many goods and chattels which were of the said T. A. at the time of his death in her hands to be administered, and if she hath not, then that you cause the damages aforesaid to be levied of the proper goods and chattels of the said A. A. and have you the monies before our justices at <sup>Westminster</sup>

# WRITS FINAL.—FI, FA.—RETURN—

Westminster on , to render, &c. to the said W. M. for his debts and damages, whereof the said A. A. is convicted; and have, &c. Witness, &c.

*Fi. fa. in assump-*  
*pt at suit of ex-*  
*ecutor against*  
*administrator,*  
*in C. B.*

GEORGE the Third, &c. to, &c. We command you, that you cause, &c. which were of G. U. deceased, at the time of his death in the hands of A. W. late of , widow, administratrix, &c. which were belonging to the said G. U. her late husband, deceased, at the time of his death, who died intestate, being in your bailiwick , which J. S. executor, &c. of P. T. deceased, lately in our court before our justices at Westminster recovered against her for his damages which he hath sustained, as well by reason of the not performing several promises and undertakings lately made by the said G. U. in his lifetime to the said , as for his costs and charges laid out by him about his suit in, &c. if she the said A. W. hath so many goods and chattels which were of the said G. U. at the time of his death in her hands to be administered; and if she hath not, then that you cause to be made of the damages aforesaid of the part of the goods and chattels of the said A. W.; and have you the monies before our justices at Westminster, to be paid to the said J. S. for the damages aforesaid, whereof the said A. W. is convicted; and have you, &c. Witness, &c.

*Fi. fa. against*  
*an executor in*  
*assumpsit after*  
*judgment by de-*  
*fault, in C. B.*

GEORGE the Third, &c. to, &c. We command you, that you cause, &c. which were of U. M. deceased, at the time of his death in the hands and custody of M. M. late of , widow, executrix of, &c. of the said U. M. her late husband, deceased, being in your bailiwick, pounds, which W. S. lately in our court before our justices at Westminster recovered against her for his damages which he has sustained, as well by reason of the not performing, &c. lately made by the said U. M. in his lifetime to the said W. S. as for his costs and charges laid out by him about his suit in that behalf, if the said M. M. hath so many goods and chattels which were of the said U. M. at the time of his death in her hands to be administered; and if she hath not so many goods and chattels in her hands to be administered, then that you cause of the damages aforesaid, to be levied of the proper goods and chattels of the said M. M.; and have you the money before our justices at Westminster, on , to be paid to the said W. for his , whereof the said M. M. is, &c.; and have, &c. Witness, &c.

*The return to*  
*the fi. fa. above,*  
*Nulla bona and*  
*decepsarii.*

I DO hereby certify to the justices within written, at the day and place within contained, that the within-named U. M. hath no goods or chattels which were of the within-named M. M. at the time of his death in her hands to be administered in my bailiwick,

## WRITS FINAL.—FI. FA.

wick, whereof the damages within-mentioned, or any parcel thereof, can be made or levied; and also that the said M. M. hath not any of her own proper goods or chattels in my bailiwick, whereof of the damages, or any part thereof, can be made and levied; but I further humbly certify to the said justices, that divers goods and chattels which were of the said U. M. at the time of his death, to the value of the damages within mentioned, came to the hands of the said U. M. after the death of the said U. M. to be administered, which same goods and chattels the same M. M. hath eloiigned, waisted, and converted to her own proper use.

GEORGE, &c. to, &c. We command you, that you cause, *Fi. fa. in case* &c. in your county of J. J. late of , pounds, which upon promise, to W. B. in our court before our justices at Westminster were *in C. B.* adjudged for his damages which he had sustained, as well by reason of the not performing, &c. made by the said J. J. to the said W. B. at in your county, for his costs and charges, &c. &c. whereof the said J. J. is convicted; and have you that money at Westminster on , to render to the said W. B. for his, &c. whereof he is, &c.; and have, &c. Witnesses, &c.

GEORGE, &c. to, &c. We command, &c. of W. M. in *Fi. fa. in trespass and assault,* your bailiwick, you cause , which to J. M. lately in our *in B. R.* court before us at Westminster were adjudged for his damages which he hath sustained by reason of a certain trespass and assault on the said J. M. by the aforesaid W. M. with force and arms, and against our peace, at in your county committed; and have then that money before us on next after , to render to the aforesaid J. M. for his damages aforesaid; whereof the said W. M. is, &c.; and have, &c. Witnesses, &c.

GEORGE, &c. to, &c. We command, that of, &c. of *Fi. fa. in debt* W. R. in your bailiwick, you cause to be made, &c. , which on bond, *in B. R.* B. B. lately in our court before us at Westminster recovered against him for a debt, also , which to the said B. B. lately in our said court before us were adjudged for his damages which he had sustained, as well by reason of the detaining that debt for his costs and charges by him laid out in and about his suit in this behalf, whereof the said M. M. is convicted, as appears, &c.; and have, &c. before us at Westminster, on next after , to render to the said B. B. for his debt and damages aforesaid, whereof, &c.; and have, &c. Witnesses, &c.

GEORGE, &c. to, &c. We command you, that of, &c. *Fi. fa. in debt,* of G. H. late of, &c. in your bailiwick, you cause, &c. as well *in C. B.* a certain debt of , which H. L. widow, in our court before  
Y 2 our

# WRITS FINAL.—FI. FA.

our justices at Westminster recovered against him, as also , which to the said H. L. in our same court were adjudged for her damages which she had sustained by reason of detaining her said debt; and have you, &c. before our justices at Westminster, on , to render to the said H. L. for her debt and damages aforesaid, whereof the said G. H. is convicted; and have you there, &c. Witness, &c.

*Fi. fa. in debt* GEORGE, &c. to, &c. We command you, that of, &c. *et non nihil re-* T. C. late of, &c. in your bailiwick, you cause, &c. as well a *turned on sci. fa.* certain debt of , which G. B. gentleman, and F. R. gentle- *et annuam et* man, in our court before our justices at Westminster recovered *in C. B.* against him, as pounds, which to the said G. B. and F. R. in our same court were adjudged for their damages which they had sustained by reason of the detention of the debt, as for his costs, &c.; and have you, &c. before our justices, &c. to render, &c. for their debt and damages aforesaid; whereof the said T. C. is, &c. and whereof it is considered in our same court before our justices at Westminster, that the said G. B. and F. R. have execution against the said T. C. by the default of the said T. C.; and have, &c. Witness, &c.

*Fi. fa. against* GEORGE the Third, &c. to, &c. We command you that of, &c. *in hundred on* of the men inhabiting in the hundred of , in your county, in *the statute of* your bailiwick, you cause, &c. , which to J. A. who as well *his and cry,* for us as for himself in this behalf prosecutes, lately in our court *in B. R.* before, &c. were adjudged for the damages which he has sustained by reason of a certain assault and battery committed upon him with force and arms, and against our peace, by certain, to wit, two malefactors unknown, to the said J. A. at the parish of , in the said hundred of , in your county, and upon our highway; and have that money before us on , wheresoever, &c. to render to the aforesaid J. A. for his aforesaid damages, according to the form, &c. whereof they are convicted; and have, &c. Witness, &c.

*Fi. fa. on a non* GEORGE the Third, &c. to, &c. We command you, that *prof. for want of* you levy of, &c. of J. S. being in your bailiwick, pounds, *plaintiff's re-* which in our court before us at Westminster, by the direction of *plying to defen-* our same court, according, &c. were adjudged to T. C. for his *dant's plea, in* costs and charges by him sustained in and about his defence in a *B. R.* certain action of trespass on the case lately prosecuted in our same court before us against him by the said J. S. because the said J. S. did not afterwards prosecute that action, whereof the said J. S. is, &c. as it appears, &c.; and have, &c. before us at Westminster, on next after , to render to the said J. S. for his costs and charges aforesaid; and have, &c.

GEORGE

# WRITS FINAL.—FI. FA.

GEORGE the Third, &c. to, &c. Whereas we lately com-  
manded our sheriff of Middlesex, that of the, &c. of J. W. in  
his bailiwick, he should cause to be made pounds, which  
T. M. gentleman, one of the attornies of our court before us at  
Westminster recovered against him for a debt, and also  
pounds, which to the said T. M. lately in our said court were  
adjudged for his damages which he had sustained, as well by rea-  
son of the detaining that debt, as for his costs, &c. whereof the  
said J. W. is convicted, &c.; and that he should have that money  
before us at Westminster, at a certain day now past, to render to  
the said T. M. for his debt and damages aforesaid; and our said  
sheriff of Middlesex at that day returned to us, that the said J. W.  
had not any goods and chattels in his bailiwick whereof he could  
cause to be made the debt, &c. aforesaid, or any part thereof;  
whereupon on the behalf of the said T. M. it is sufficiently testi-  
fied in our said court before us, that the said T. M. hath sufficient  
goods and chattels in your bailiwick whereof the debt and da-  
mages aforesaid may be made and levied; therefore we command  
you, that of, &c. of the said J. W. in your bailiwick, you cause  
the debt and damages aforesaid to be made and levied, so that you  
have that money before us at Westminster on next after ,  
to render to the said T. M. for the debt and damages aforesaid;  
and have, &c. Witness, &c.

GEORGE the Third, &c. to our chancellor of our county  
palatine of Lancaster, or to his deputy there, greeting: Whereas  
we lately commanded our sheriffs of the city of York, that of,  
&c. of J. B. in their bailiwick, they should cause to be made  
pounds, which J. R. and W. A. lately in our court before  
us at Westminster recovered against him for their damages which  
they had sustained, as well by reason of the not performing, &c.  
lately made by the said J. B. to the said J. R. and W. A. as for  
their costs, &c. whereof the said J. B. is convicted, as, &c.;  
and that they should have that money before us at Westminster,  
at a certain day now past, to be rendered to the said J. R. and  
W. A. for their damages aforesaid; and our said sheriffs of the  
city of York at that day returned to us, that the said J. B. had not  
any goods and chattels in their bailiwick whereof they could cause  
to be made the damages, or any part thereof; whereupon on the  
behalf of the said J. R. and W. A. it is sufficiently testified in our  
said court before us, that the said J. B. hath sufficient goods and  
chattels in our said county palatine whereof the damages aforesaid  
may be made and levied; therefore we command you, that by our  
writ, &c. you command the same sheriff that of the, &c. of the  
said J. B. in his bailiwick, he cause the damages aforesaid to be  
made and levied, so that the said sheriff have that money before us  
at Westminster, on next after , to render to the said J. R.  
and W. A. for their damages aforesaid; and have, &c. Wit-  
ness, &c.

WRITS FINAL AND JUDICIAL.—TEST. FI. FA.—SUPERSEDEAS

*fa. into* GEORGE the Third, &c. to our chamberlain of our county  
*nty pala-* palatine of Chester, or to his deputy there, greeting: We com-  
*Chester,* mand you, that by our writ, &c. you command the said sheriff  
*verdict* that he cause, &c. in his bailiwick of J. H. late of, &c.  
*on pro-* pounds, which to J. K. in our court before our justices at West-  
*in C. B.* minster were adjudged for his damages which he had sustained by  
reason of the non-performance of, &c. made by the said J. H. to  
the said J. K. of , in the county of ; and that the  
said sheriff have that money before, &c. in , to ren-  
der to the said J. K. for his damages aforesaid, whereof the said  
J. H. is convicted; and whereof our said sheriff of hath  
certified to our, &c. at a certain, &c. that the said J. H. had no,  
&c. in his, &c. whereof the damages aforesaid or any part thereof  
could be made and levied; and have, &c. Witness, &c.

*ons for* BY rule 8. George I. it is ordered, “that if any plaintiff shall  
*perjeadas* for declare against any defendant in the custody of the warden of the  
*the proceeding* fleet, sheriff, or other officer, by virtue of process of this court,  
*judgment, in* and not proceed to *judgment in three* terms after such declaration  
*B.* delivered, inclusive of the terms in which the declaration shall be  
delivered, the defendant having appeared.” [This is meant final  
judgment, always understood to be so.]

This appearance, which must be  
entered with the prothonotary's, may  
be entered when you sign the *super-*  
*fedeas*, which you make out yourself,  
(and get signed with the prothonotary);  
“then such defendant so remaining in  
prison may be discharged by *super-*  
*fedeas* to be allowed by the judge,  
unless cause be shewn why such plain-  
tiff did not proceed to judgment as  
aforesaid, upon notice to plaintiff or  
his attorney, and oath of such notice.  
In order to obtain such *superfedeas*,  
you are to have a copy of the causes,

and certificate of the time of the deli-  
very of the declaration from the gaoler,  
with an affidavit of the gaoler's hav-  
ing signed it; then search the protho-  
notary's final judgment book of the  
term the declaration is of, and the two  
following terms, and then take out a  
summons from a judge; and if the  
plaintiff's attorney appears not upon  
the third summons, an affidavit of  
three summonses and your attendances  
thereon, and that no final judgment is  
signed, the judge will order you a *su-*  
*perfedeas*.

*perjeadas for* GEORGE, &c. to, &c. Whereas we lately by our writ  
*the proceeding* commanded you to take C. D. and safely keep him, so that you  
*judgment in* might have his body before our court at a certain day now past,  
*the terms.* to answer to A. B. in a plea of trespass, and also in a certain plea  
of trespass upon the case upon promises, to the damage of the said  
A. B. of , and whereas you by virtue thereof did arrest the  
said C. D. and now detain him thereon in your custody, and also  
whereas the aforesaid A. B. in Easter term last did declare against  
him the said C. D. but hath not yet proceeded to judgment thereon  
in three terms, according to the course and practice of our court  
of C. B.; and the said C. D. hath appeared in our same court by  
E. F. his attorney, to answer to the said A. B. in the plea afore-  
said;

# —WRITS JUDICIAL.—SUPERSEDEAS—

said; therefore we command you forthwith to discharge the said C. D. from his imprisonment and set him at liberty, if he be detained in your custody on the aforesaid occasion only. Witnesses, &c.

Get a copy of the causes from the clerk of the papers at the K. B. prison, for which you pay , and a certificate from the clerk of the declarations, and pay ; then take out a judge's summons for plaintiff, to show cause why defendant should not be discharged, plaintiff not having proceeded to judgment within three terms after declaration delivered.

If plaintiff's attorney attends on first summons, and consents to an order for a *superseas*, (for which you pay him three shillings and fourpence) the judge will make an order for his *superseas* upon filing common bail.

Then fill up a bail piece, and deliver it and the judge's order to the clerk of the bail, who thereupon makes out a certificate to the marshal of the K. B.

prison, that common bail was filed for the defendant according to the judge's order, for which pay him deliver the same to the defendant at the K. B. prison, who will thereupon get discharged without any writ of *superseas*.

If the defendant had been in the sheriff's goal, a writ of *superseas* must have been made out and delivered to the sheriff.

The certificate from the clerk of the declarations was needless in this case, and would have been necessary in order to get a writ of *superseas* for want of a declaration; but to get a *superseas* for want of a declaration one summons from a judge is only necessary.

The manner of obtaining *superseas* for not proceeding to judgment in three terms in B. R.

GEORGE, &c. to, &c. Whereas we lately by our writ commanded our late sheriff of that he should take T. W. if he should be found in his bailiwick, and that he should safely keep him, so that he might have his body before us at Westminster, at a certain day now past, to answer J. K. in a plea of trespass; and also to a bill of the said J. K. against the said T. W. for upon promises, according to the custom of our court before us exhibited; and whereas our said late sheriff by virtue thereof did arrest the said T. W. and he is now detained thereon in your custody; and also whereas the aforesaid J. K. in the term of the Holy Trinity last past, did declare against the said T. W. but because the said J. K. hath not proceeded to trial or obtained judgment thereon within three terms next after , declaring against the said T. W. according to the course and practice of our court before us; and the said T. W. having in our same court before us come and put in common bail to answer to the said J. K. of the plea and bill aforesaid; therefore we command you forthwith to discharge the said T. W. from his imprisonment and set him at liberty, if he be detained in your custody on the aforesaid occasion only. Witnesses, &c.

*Superseas* for not proceeding to trial or judgment in three terms, in B. R.

*Ac tiom.*

GEORGE, &c. to our chancellor, &c. Whereas we lately commanded you, that by our writ under the seal of our said county palatine duly to be made out, and to be directed to the sheriff of the said county, you should command the same sheriff that he should take W. B. esquire, the elder, together with one W. B. the

*Superseas* putting in B. R.

# WRITS JUDICIAL.

the younger, if they might be found in his bailiwick, and them safely keep, so that you have their bodies before us at Westminster, on, &c. to answer K. W. of a plea of trespass, and also to a bill of the said K. W. against the said W. B. &c. for upon promises, according to the custom of our court before us to be exhibited, yet because it appears to us that the said W. B. esquire, hath put in special bail, who have justified and are ready to answer the aforesaid W. B. of the said plea and bill; therefore we command you, that by our writ under the seal of the said county palatine duly to be made out, and to be directed to the sheriff of the same county, you command the same sheriff that if the said W. B. the elder, for that cause and no other in our prison under his custody is detained, that then without delay the said sheriff cause him the said W. B. the elder, to be freed from the prison where he is so detained, and permit him to go at large, as he the said sheriff will answer the contrary at his peril. Witness, &c.

Subpoena for  
not proceeding  
to execution in  
two terms, in  
R.

GEORGE, &c. to the warden of our prison of the fleet, greeting: Whereas P. L. was committed to the prison of the Fleet aforesaid by sir G. C. knight, one of our justices of the court of the bench at Westminster, by virtue of our writ of *habeas corpus cum causa*, directed to the marshal of our marshalsea, and by the return thereof was charged with the render made by the said P. L. of Easter term last past, unto the said marshal in discharge of his bail in an action brought in our court before us by W. M. against the said P. L. in a plea of debt on demand for , and costs, but because the said W. M. hath not proceeded to charge the said P. L. in execution within two terms next after such render, according to the course and practice of our court before us, and the said P. L. having in our said court before us come and put in common bail to answer to the said W. M. of the plea aforesaid; therefore we command you forthwith to discharge the said P. L. from his imprisonment and set him at liberty, if he be detained in your custody on the aforesaid occasion only, as you will answer the contrary at your peril. Witness, &c.

Subpoena for  
proceeding  
final judgment  
within  
two terms after  
return filed,  
in

GEORGE, &c. to, &c. Whereas by our writ we commanded the late sheriff of your county, (the predecessor) that he should take E. S. if he, &c. and him, &c. before us at Westminster on, &c. in the year of our reign, to answer J. B. gentleman, one of the attornies, &c. of a plea of trespass, and also to a bill of the said J. B. against the said E. S. for upon promises, according, &c. and because the said J. B. hath not proceeded thereon according to the rules and orders of our said court before us, and the said E. S. hath now in our said court before us appeared and put in common bail to answer the said J. B. of the plea aforesaid; therefore we command you, if the said E. S. for that cause and no other, in our prison under your custody is detained, then that without

without delay you cause him the said E. S. to be freed from the prison where he is detained, and permit him to go at large, &c. Witness, &c.

GEORGE, &c. to, &c. Whereas we lately, &c. that you should take J. H. if, &c. and him, &c. before us at Westminster, on, &c. last past, to answer E. A. and C. J. in a plea of trespass, and also to a bill of the said E. A. and C. J. against the said J. H. for debt, according to the custom of our said court before us to be, &c.; and whereas the said E. A. and C. J. have not declared against the said J. H. within two terms; and the said J. H. in our same court before us hath come and put in common bail, at the suit of the said E. A. and C. J. in the plea aforesaid; therefore we command you, that you surcease from future taking the said J. H. or attaching, imprisoning, or any ways molesting him at the suit of the said E. A. and C. J. in the suit aforesaid, and if on that occasion, and not on any other, you have taken and detained him in prison, that you do at your peril without delay cause him the said J. H. to be delivered out of prison in which he is so detained. Witness, &c.

*Superfedeas not declared two terms B. R.*

GEORGE, &c. to, &c. Whereas we lately, &c. take R. U. late of if he should, &c. and that you, &c. before our justices at Westminster, now last past, to answer to J. T. of a plea of trespass, and also of a certain plea of trespass on the case for on promises, according to the custom of our court of C. B. now because the said J. T. hath not declared against the said R. U. within two terms; and the same R. U. hath appeared in our same court before our same justices by T. W. his attorney, and his appearance by the court here is recorded; therefore we command you, that you wholly desist from further arresting, imprisoning, or in anywise molesting the aforesaid R. U. for the cause aforesaid, and if you took him for that cause and none other, that you (at your peril) forthwith set him at liberty and let him go at large. Witness, &c.

*Superfedeas above, in*

[A *superfedeas* for a prisoner for want of declaration within two terms is obtained by first getting the following certificate from the gaoler.]

I. E. H. keeper of the county gaol of do certify, that J. H. was, on day of in the year of Our Lord , committed to the county gaol of by virtue of a *latitat* issued out of his majesty's court of K. B. at Westminster, returnable on , at the suit of A. B. in a plea of debt for : And I do hereby certify, that since such the said J. H.'s commitment, there has not been delivered to me or my turnkey any declaration against him at the suit of the said A. B. or any other person whatsoever.

*Gaoler's certificate.*

## WRITS PREROGATIVE AND JUDICIAL.

over, and that no *habeas corpus* has been brought for the removal of the said J. H. Witness my hand, &c.

[An affidavit of the gaoler's hand to this certificate, if a country goal.]

**Affidavit** of R. B. of, &c. maketh oath, that he this deponent did on the day of see E. H. keeper of his majesty's gaol in this certificate. for the county of , subscribe his name to the certificate hereunto annexed, and that at the same time, he this deponent subscribed his name as witness to the said certificate, and that C. D. of, &c. did then also subscribe his name as a witness to the said certificate in the presence of this deponent.

After you have got this certificate and affidavit you must get a certificate from the clerk of the declarations of no declaration filed, and then take out a judge's summons to shew cause why the defendant should not be discharged by *superfedeas*, for the plain-

tiff's not declaring in two terms; and on first summons and affidavit of attendance thereon, the judge will order the *superfedeas* on filing common bail, which order he makes at the bottom of your bail piece, and on paper besides.

**Hab. cor.** to remove a cause out of an inferior court above five miles from London or Mid-  
**West.** GEORGE the Third, &c. to the mayor, alderman, bailiffs, burgesses, and common council of our borough of , in the county of , and every of them, greeting: We command you, and every of you, that you have before us at, &c. on and safely and securely conduct the body of T. J. who is said to be detained in our prison under your custody, together with the day and cause of his being taken and detained by whatsoever name he the said T. J. may be therein charged to do and receive all and singular those things which our court before us shall then and there consider of in this behalf; and have you, &c. Witness, &c.

**No fiat** from the judge now necessary.

**Hab. cor. cum causa**, in C. B. GEORGE the Third, &c. to, &c. We command you, that you have before, &c. one of the justices of our court of C. B. at his chambers in Serjeant's Inn, Chancery-lane, immediately after the receipt hereof, the body of D. S. in our prison under your custody detained, as it is said, by whatsoever name the said D. S. is therein called, together with the day and cause of his being taken and detained to do and receive that which our said justice shall then and there consider of him in this behalf; and have, &c. Witness, &c.

**Hab. cor. for a writ.** GEORGE, &c. to, &c. We command, &c. our justices at Westminster, on or before our justices assigned, according to the form, &c. to take assizes in your county on, &c. at in your county, if they shall first come, the bodies of the several persons named in the panel to this writ annexed, (name them and their additions of a special jury) being the jurors summoned in

## HABEAS CORPUS.—

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in our court before our, &c. between J. M. of, &c. plaintiff, and G. B. of, &c. defendant, of a plea of trespass to make that jury; we command you also that you cause the place in question to be shewn to six or more jurors impanelled to try the issue in this cause, who shall be mutually consented to by the parties or their agents on both sides above mentioned, upon Tuesday the day of , on or about of the clock in the forenoon of the same day, which said jurors shall meet at the house of , known by the sign of , at in your county, who shall be there refreshed at the equal charge of both parties, and that M. O. on the part of the plaintiffs, and W. B. on the part of the defendant, shall shew that place to those jurors, yet no evidence shall be then and there given to the said jurors, according to the form, &c. and in what manner you shall have executed this our precept you shall make known to our justices at the assizes aforesaid; and have you, &c. Witness, &c.

I DO hereby certify to the justices within written, that by virtue of this writ to me directed on in the said writ mentioned, I had the bodies of (name the six jurors) six of the jurors chosen to take a view of the place in question upon the shewing of M. O. and W. B. in the said writ above named, the rest of the execution of the said writ appears in a certain panel to the same annexed. The return.

GEORGE, &c. to our judges of our court of our palace at Westminster, and to every of them, greeting: We command move a ci you, that you have the body of J. B. detained in our prison under your custody, as it is said, by whatsoever name he may be called in the same, together with the day and cause of his being taken and detained before, &c. one of, &c. at his chambers in, &c. immediately after the receipt of this writ, to do and receive what our said justices shall then and there consider in this behalf; and have, &c. Witness, &c. Hab. cor. to  
from the  
the court

On the bench, by the court. JONES.

[Our answer to this writ appears in the schedule hereto annexed, Charles, duke of Marlborough, steward of the king's household, and J. C. esquire, marshal of the said household, and B. D. esquire, steward of the palace court within mentioned, judges of the said court.] The return  
the palace co

WE, Charles, duke of Marlborough, steward, &c. J. C. esquire, &c. and B. D. esquire, &c. (describing them as above) being the judges of the said court, certify to , one of the king's justices of his court of C. B. that before the writ hereunto annexed, came to us, to wit, on the in the said writ named, the said J. B. was taken at Southwark, in and within the jurisdiction The ki  
court of pa  
at Westmin

## WRITS PREROGATIVE AND JUDICIAL.—HA.

dition of the said court, and is there detained in the king's prison under our custody, by virtue of a plaint levied against him in the said court at the suit of C. G. in a plea of trespass on the case to the damages of fifty pounds, and this is the cause of the taking and detaining the said J. B. in the said prison under our custody, whose body we have ready at the place in the said writ mentioned, as by the said writ we are commanded.

*Hab. cor.* to remove a person in the custody of the sheriff of Lancashire.

GEORGE, &c. to the sheriff, &c. greeting: We command you, that you have under safe and secure conduct before our right trusty, &c. our chief justice, assigned to hold pleas in our court before us, at his chambers situate, &c. immediately after the receipt of this our writ, the body of E. L. in our prison under your custody, as it is said, together with the day and cause of his being taken and detained, by whatsoever name the said E. L. may be charged in the same, to do and receive all and singular those things which our chief justice shall then and there consider of him in this behalf; and have you there, &c.

*Hab. cor.* to the governor of Tothill Fields Bridewell for a prisoner.

GEORGE, &c. to the governor of Tothill Fields Bridewell, or to his deputy there, greeting: We command you, firmly enjoining you, that you or one of you have before our right trusty, &c. immediately after the receipt of this our writ, the body of W. C. being committed and detained in our prison under your custody, as it is said, together with the day and cause of the taking and detaining of the said W. C. by whatsoever name the said W. C. be called in the same, to undergo and receive all and singular such things as our said chief justice shall then and there consider of concerning him in that behalf; and that you have there this writ. By the Court.

BURROW.

Indorsed by the statute of thirty-first Charles II. KENYON.

*Hab. cor.* to remove a cause out of the borough court of Southwark.

GEORGE, &c. to the steward of the court of the liberty of the mayor and commonalty and citizens of the city of London of their town and borough of Southwark, in the county of Surry, and also to the bailiff of the same liberty, greeting: We command you, [Go on as in the *habeas corpus* to the marshalsea court.]

*Hab. cor.* to bring the body of an infant detained in the custody of the father who has married a second

GEORGE, &c. to J. A. and C. his wife, late C. L. greeting: We command you, that you bring before our right trusty, &c. immediately after the receipt of this our writ, the body of H. L. the infant son of you the said C. A. by W. L. late of , deceased, (the former husband of you the said C. A.) and which said H. L. is now detained in your custody, as it is said, to do and receive all and singular those things which our said chief justice

just ce

justice shall then and there consider of him in this behalf. Witnesses, &c.

LEE.

GEORGE, &c. to the sheriffs of the city of York, and to each of them, greeting: We for certain reasons being desirous <sup>Certiorari</sup> C. B. that our justices of the bench should be certified what complaints are levied or affirmed in our court before you, or either of you, against J. A. at suit of J. W. do therefore command you, and each of you, that all and singular the said complaints, together with all things touching the same, you distinctly and openly send to our justices at Westminster, from \_\_\_\_\_, as fully and amply as the same are remaining before you or either of you, by whatsoever names the said parties be called therein, together with this writ, that our said justices may cause to be further done thereupon what they shall think of right ought to be done. Witnesses, &c.

GEORGE, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: We being willing <sup>Certiorari</sup> move from the of C. B. for our said county palatine, against G. L. at suit of H. Z. on a plea of trespass, do command you, that by our writ under the seal of our said county palatine duly, &c. to our prothonotary of our said court of C. B. for our said county palatine of Lancaster, you command the same prothonotary, that the plaintiff aforesaid, as fully and entirely, with all things touching the same, as it remains before him by whatsoever names the said G. L. and H. Z. may be called in the same, without delay be certified to you, that you may certify to us at Westminster on, &c. and together with this writ, that you may further cause to be done therein, as of right we shall see fit to be done. Witnesses, &c.

The prothonotary of the court of Lancaster refused to allow this *certiorari*, and judgment was signed; but it was agreed between the parties not to take out execution till the opinion of the court of B. R. should be known whether a *certiorari* could issue out of B. R. to remove a cause out of the county palatine in order to bring the matter before the court. An attachment was moved for against the prothonotary for not returning the *certiorari*. The matter came before the court in Trinity term 1781, when the

court said the prothonotary had done wrong in refusing to allow the *certiorari*, that he should have sent up the record, and then have moved to quash the *certiorari* as being improperly issued. Lord Mansfield said this *certiorari* was irregularly issued, that a *certiorari* would lay from the court of B. R. to a county palatine under certain circumstances; for instance, if the parties wanted a trial at bar, but it by no means issued of course, and could not issue in any case without a special application to the court.

GEORGE, &c. to, &c. Whereas B. R. lately in our court <sup>Writ</sup> before our justices at Westminster, by the judgment of the same <sup>from</sup> court recovered against J. D. late of \_\_\_\_\_ in your county, yeoman, <sup>his</sup>

# WRITS FINAL.—WRITS OF POSSESSION.—

his term yet unexpired of and in one third part of one acre, one cottage, &c. with the appurtenances in the parish of in your county, which one A. R. on demised to the said R. R. for a term of years which is not expired, that is to say, from the then last past to the full end and term of five years then next following, and fully to be complete and ended, by virtue of which said demise the said R. R. entered into the tenements afore said, with the appurtenances, and was possessed thereof until the said J. D. afterwards, that is to say, on the said, &c. in the, &c. with force and arms entered into the said tenements, with the appurtenances, and ejected, drove out, and removed the said R. R. from his said farm for the said term then and yet unexpired, and still doth withhold the possession of the same from the said R. R.; therefore we command you, that without delay you cause the said R. R. to have his possession of his term yet unexpired of and in the said tenements, with the appurtenances, and in what manner you shall have executed this precept you do make appear to our said justices at Westminster, on, &c.; and have, &c. Witness, &c.

Writ of possession on a single demise after *sci. fa.* and *sci. fe.* returned, and judgment revived against the casual ejector, in B. R.

GEORGE, &c. to, &c. Whereas J. D. lately, &c. before us at Westminster by bill without our writ, and by the judgment of the same court recovered against R. R. his term yet to come and unexpired of and in one hundred and sixty acres of land, with the appurtenances, situated in your county, which C. S. widow, on the day of, in [If of tithes by deed, say "at, &c. by a certain deed poll then and there made between the said of the one part, and the said on the other part, had demised, granted, and to farm let unto"] demised to the said J. D. for a term of years not yet expired, that is to say, from, &c. from thence next ensuing, &c. by virtue of which said demise the said J. D. entered upon the said tenements, with the appurtenances, and was possessed thereof until the said Richard Roe afterwards, to wit, on the said, &c. with force and arms entered into the said tenements afore said, with the appurtenances, in and upon the possession of him the said John Doe, and ejected, drove out, and removed the said J. D. from his said farm, his said term therein not being unexpired, and him the said J. D. so ejected, driven out, and removed, hath kept out, and doth yet keep out of his possession thereof, whereof the said R. R. is convicted, as, &c. and whereof in our same court before us it is considered, that the said J. D. has against the said R. R. his execution of the judgment afore said, according to the force, form, and effect of the said recovery, as it appears also to us on record, therefore we command you, that without delay you cause the said J. D. to have his possession of his said term yet to come of and in the tenements afore said, with the appurtenances, and in what manner you shall have executed this our precept certify to us at Westminster on, &c.; and have, &c. Witness, &c.

GEORGE,

## OF POSSESSION.—WRIT OF INQUIRY—

GEORGE, &c. to our chancellor, &c. Whereas J. G. <sup>Writ of pos</sup> lately in our court before, &c. by bill without our writ, and by <sup>tion in Lan</sup> the judgment of the same court recovered against R. B. his term yet to come of and in one messuage, &c. with the appurtenances, situated, &c. which J. S. on the      day of      , in the      year of our reign demised unto the said J. G. for a term of years which is not yet expired, to wit, from the, &c. from thence, &c. by virtue of which demise the said J. G. entered upon the same tenements, with the appurtenances, and was thereof possessed until the said R. B. afterwards, to wit, on the, &c. at      aforesaid, with force and arms entered upon the same premises, with the appurtenances, in and upon the possession of the said J. G. and ejected, drove out, and removed him the said J. G. so ejected, driven out, and removed, hath kept, and still doth keep out from his possession thereof, whereof the said R. B. is convicted, as appears, &c.; therefore we command you, that by our writ under the seal of our said county palatine, duly, &c. to the sheriff of the same county, you command the same sheriff that without delay he cause the said J. G. to have possession of his term aforesaid yet to come of and in the tenements aforesaid, with the appurtenances, and in what manner you, &c. make appear to, &c.; and have, &c. Witness, &c.

GEORGE, &c. to, &c. Whereas E. M. doctor of laws, <sup>Writ of inq</sup> lately in our court before us at Westminster, by his bill without <sup>in assumpsit</sup> our writ, impleaded T. W. being in the custody of the marshal <sup>B. R.</sup> of the marshallea before us for this, to wit, that whereas [Follow the declaration *verbatim*, only saying instead of “in the year of our reign, &c.” in the [If it is in the declaration “in the year of Our Lord, &c.” say so, and not in the twelfth year of our reign] twelfth year of our reign, to the damage of the said E. M. of      pounds, as he has alledged, and thereupon he hath brought his suit, and such proceedings have been thereupon had in our same court before us, that the said E. M. ought to recover his damages against the said T. W. occasioned by the not performing the promises and undertakings before mentioned; but because it is not known to our court before us what damages the said E. M. hath in that behalf sustained; therefore we command you, that by the oath of twelve honest and lawful men of your bailiwick, you diligently inquire what damages the said E. M. hath sustained, as well by reason of the not performing, &c. as for his costs, &c. laid out by him about his suit in this behalf, and that you make a return of the inquisition which you shall take thereon to us at Westminster, on      under your seal and the seals of those by whose oath you shall take that inquisition, and have, &c. Witness, &c.

GEORGE,

## WRITS OF INQUIRY —

of inquiry,

**GEORGE, &c. to, &c.** Whereas C. D. late of, &c. in your county hath been attached in our court before our justices at Westminster, to answer to A. B. of a plea, that whereas [And so on to the end of the declaration, leaving out as often as you find the words "in your county aforesaid," and when you come to the end, instead of "and therefore he brings suit, &c." say, "as it is said," and then in the same line go on thus], and such proceedings have been had in our said court, that the said A. B. ought to recover his damages against the said C. D. occasioned "by the not performing, &c." in assumpsit, or otherwise as the case is; but because our said court doth not know what damages the said A. B. hath sustained in this behalf, we command you, that by the oath of twelve good and lawful men of your county you diligently inquire what damages the said A. B. hath sustained, as well by reason of the not performing, &c. as for his costs and charges laid out by him about his suit in this behalf; and that you make appear the inquisition which you shall take thereon before our justices at Westminster, on, &c. under your seal, and the seals of those by whose oath you shall take that inquisition, sending back unto our said justices this writ. Witness, &c.

[If the defendant be an attorney, say, "Whereas J. B. clerk, lately in our court before our justices of the bench at Westminster, exhibited to our same justices his certain bill against P. W. gentleman, one of the attornies of our court of the bench aforesaid, present here in court in his proper person, of a plea, that whereas, &c. [Go on with the declaration, return on a day certain, &c.]

[If at the suit of an attorney, say, "Whereas W. J. was attached by our writ of privilege issuing out of our court here, to be before our justices at Westminster, to answer S. P. one of the attornies of the bench here, according to the liberties and privileges of the said court for such attornies and other officers, ministers, &c. for time immemorial used and approved of in the said court; for that, to wit, that whereas [As before, writ returnable on a day certain.]

of inquiry  
covenant, in

**GEORGE, &c. to, &c.** Whereas W. R. late of, &c. yeoman, was summoned to be in our court before our justices at Westminster, to answer unto A. B. of a plea, that he keep with him the said A. B. the covenant made between the said A. B. and W. R. according to the force, form, and effect of a certain indenture thereof made, &c. for that whereas, &c. [As in the declaration,] to the said A. B. his damages of        pounds, as it is said; and such proceedings have been thereupon had in our said court, that the said A. B. ought to recover his damages against the said W. R. by reason of the breach of covenant aforesaid, but because it is not known to our said court what damages the said A. B. has sustained by reason of the breach of covenant aforesaid, we command

## WRIT OF ENQUIRY.—WRIT PREROGATIVE.

you, that by the oath of twelve good and lawful men of your county you diligently inquire what damages the said A. B. hath sustained, as well by occasion of the breach of covenant aforesaid, as for his costs, &c. laid out by him about his suit in this behalf, and that you make appear the inquisition which you shall take thereof before our justices at Westminster, on \_\_\_\_\_, under your seal, and the seals of those by whose oath you shall take that inquisition, sending back unto our said justices this writ. Witnesses, &c.

GEORGE, &c. to our chancellor, &c. there greeting: *Writ of Inquiry.*  
Whereas W. H. lately in our court before us at Westminster, by *into Lancaster*  
his bill without our writ, impleaded J. R. being in the custody of *assumpsit,*  
our marshal of the marshalsea before us for this, to wit, that *B. R.*  
whereas [As in the declaration to the end *verbatim,*] to the damage of the said W. H. of \_\_\_\_\_ pounds, as he hath alledged, and such proceedings have been thereupon had in our same court before us, that the said W. H. ought to recover his damages against the said J. R. occasioned by his not performing the promises and undertakings before mentioned, but because it is not known to our court before us what damages the said W. H. hath in this behalf sustained; therefore we command you, that by our writ under the seal of our said county palatine duly, &c. to the sheriff of the same county, you command the same sheriff, that by the oath, &c. of his bailiwick, he diligently, &c. as for his costs and charges laid out by him about his suit in this behalf, and the inquisition which he thereof shall do you make appear to us at Westminster, on \_\_\_\_\_, &c. under his seal, and the seals of those by whose oath he shall take that inquisition; and have you, &c. Witnesses, &c.

GEORGE, &c. to the sheriffs of London, and also to the *Writ of Supplic-*  
keeper of the peace within the said city, greeting: E. the wife of *carit out of*  
J. B. hath supplicated us, that whereas she is grievously and mani- *chancery on as-*  
festly menaced of her limbs by the said J. B. we would provide *ticles exhibited.*  
for the security of her the said E. in this behalf, we yielding to the supplication aforesaid firmly enjoining do command you, and every of you, that one of you cause the aforesaid J. B. to come before you, or one of you, and that you, or one of you, compel him to find sufficient manucaptors who him will mainprize, under certain pains on him by you, or one of you, reasonably to be for which to us, you, or one of you, will answer that he shall not do, or procure to be done, any damage or hurt to the said E. or her body in any manner, and if he shall refuse to do this before you, or one of you, then do you, or one of you, commit him the said J. B. to our next gaol, to be safely kept in the same until he shall do this freely; and when you, or one of you, shall have taken such security, then to make us more certain do you, or one of you, certify to our sheriff without delay into our chancery dis-  
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tinctly and openly under your seal of one of your seals, you, or one of you, remitting to us this writ; and this you, or any of you, are not to omit. Witness, &c.

(Indorsed thus)—By an order of the court of chancery upon articles exhibited and assised in the same court upon oath, pounds security by the said J. B. and his surety to give security in the like sum of                      pounds.

Write thus upon the label—"To the sheriffs and keepers of the peace of London, on a *supplicavit* for E. B. against her husband." SNOW.

it of GEORGE, &c. to P. C. greeting: We command you, and ex- strictly enjoin, that immediately after the receipt of this our writ or notice hereof, you pay or cause to be paid to R. W. or his assigns in that behalf, the bearer hereof the sum of                      of lawful money of Great Britain, and assessed upon you by our court of exchequer at Westminster allowed to the said R. W. for his costs and charges by him at your suit unjustly sustained in our court; and this you omit not under the penalty of one hundred pounds, which if you neglect this our command, we shall cause to be levied to our use on your goods and chattels, lands and tenements. Witness sir James Eyre, knight, the day of                      , in the year of our reign, by the allowance of our said deputy remembrancer, and by the barons.

MARSHAM.

Subpoena at the GEORGE, &c. to A. B. C. D. E. F. and G. H. and to assizes ad testifi- every of them, greeting: We command you, and every of you, pendum, on an in- firmly enjoining, that laying aside all excuses and pretences whatsoever, you, and every of you, personally be and appear before our justices assigned to hold the assizes in                      and for our county of                      , to deliver the gaol of the same county of the prisoners therein being, on Saturday the twenty-third of March next, at                      , there to testify the truth between us and John Morris, for certain trespasses, contempts, and misdemeanors, whereof he is indicted on the part of the defendant, and this you, or any one of you, are not to omit under the penalty of one hundred pounds, to be levied on the goods and chattels, lands and tenements, of such of you as shall fail herein. Witness Lloyd lord Kenyon, the day of                      , in the                      year of our reign. By the court. BURROW.

GEORGE, &c. to, &c. We command you, and every of you, firmly enjoining you that laying aside all and all manner of business and excuses whatsoever, you, and every of you, be in your proper persons before our justices assigned to take the assizes

in the county of [If in Bristol, say "in the city of Bristol, in the county of the same city,] on the day of next at in the said county, to testify all and singular those things which you, or either of you, know in a certain action now depending and undetermined in our court before us between A. B. plaintiff, and C. D. defendant, of a plea of , on that day to be tried by a jury of the country, and this you, and every of you, are in no wise to omit, under the penalty of one hundred pounds of every of you. Witness, &c. [as before.] [If in London say,] before our trusty and well beloved the right honourable , our chief justice assigned to hold pleas in our court before us on the day of at Guildhall, London; [If in Middlesex, say] before our trusty [And as before in London, till] on the day of at Westminster, in the great hall of pleas called Westminster Hall.

[As before, till "to be tried by a jury of the country," and then go on as follows]; and that you then there bring with you and produce before our said justices there a certain indenture *triple* <sup>*Subpoena duces tecum of a deed*</sup> dated the day of made between A. B. of, &c. of the first part, C. D. of the second part, and E. F. of, &c. of the third part now in your custody, and all other deeds, evidences, and writings which you have in your custody or power concerning the premises, and this you are in no wise to omit. [As before]

GEORGE, &c. to, &c. greeting: We command you, and every of you, firmly enjoining you, that laying aside all and all manner of business and excuses whatsoever, you, and every of you, be in your proper persons before the sheriff of our county of on the day of next following, at in the said county of to testify all and singular those things which you, or either of you, know in a certain action depending in our court before us, between A. B. plaintiff, and C. D. defendant, in a plea of , on which said action a writ of inquiry of damages is then and there to be finally executed, and this you, and every of you, are in no wise to omit, under the penalty of one hundred pounds of every of you. Witness, &c. <sup>*Subpoena upon writ of inquiry*</sup>

GEORGE, &c. to, &c. greeting: We command you, and every of you, firmly enjoining you, that laying aside all and all manner of business and excuses whatsoever, you, and every of you, be in your proper persons before our trusty and well beloved the right honourable Lloyd lord Kenyon, our chief justice assigned to hold pleas in our court before us, on the day of next, at Guildhall, London, to testify all and singular those things which you, or either of you, know in a certain action now depending and undetermined in our court before us, between C. H. and N. H. plaintiffs, and A. G. defendant, of a plea of trespass <sup>*Subpoena books and papers respecting freight and sale of a ship*</sup>

## FORMS.—WRITS FINAL—

upon the case, and on that day to be tried by a jury of the country, and that you then and there bring with you and produce before our chief justice all and singular the books and papers belonging to the late J. and D. that in any manner relate to or concern the freight and sale of the ship or vessel called the Sally, commanded by captain George Porter, and consigned by the late T. D. of the island of Montserrat, unto the said J. and D. and by them sold and disposed of for and on the account of the said T. D.; and all other evidences and writings which you, or either of you, have in your custody or power concerning the premises, and this you are in no wise to omit, under the penalty of one hundred pounds of every of you. Witness, &c.

Form of an agreement not to bring writ of error, &c. where final judgment has been signed.

In the king's bench. Between { JOHN DAVENPORT, plaintiff,  
and  
EDW. ASHURST, defendant.

WHEREAS the said plaintiff hath in this present Easter term signed final judgment against me for damages and costs, but having at my special instance and request consented not to take out any execution thereon until the first day of May next, upon my undertaking not to bring a writ of error, or file a bill in equity in consideration of the premises, I do hereby promise that no writ or writs of error shall be commenced or prosecuted by me or any one on my behalf to reverse the said judgment, or to retard or to delay the execution thereof, and further that no bill shall be filed, nor any suit be instituted in any of the courts of equity by me or any other person against the said John Davenport, either for an injunction to stay the issuing of any execution upon the said judgment, or for any other purpose whatsoever, touching or in any wise concerning the said judgment in the money or any part thereof recovered therein; and in order the more effectually to enable the said John Davenport to carry such my agreement into execution, I do hereby authorize and empower Henry Downley Ward, attorney for the said John Davenport, or any other attorney, to *non prof.* any writ or writs of error that shall or may be brought by me or any other person to reverse or set aside the said judgment, or for me or in my name to discontinue the prosecution of any writ or writs of error, and to do any other acts for that purpose, and also to dismiss or discontinue any suit or suits in equity that shall or may be instituted by me against the said John Davenport, touching or in any wise concerning the said judgment or the monies recovered thereon as aforesaid, as witness my hand, &c.

*Levavi facias*  
against bail on  
judgment on  
*fa.* after  
*sa.* and for  
costs alter *f. fa.*

GEORGE, &c. We command you, that of the goods and chattels of R. B. late of, &c. you cause to be made twenty-three pounds and eightpence, of the lands and chattels of B. H. late of, &c. you cause to be made the like sum of twenty-three pounds and eightpence, in which said sum of twenty-three pounds and eightpence,

# LEVARI FACIAS—FI. FA.

eightpence, the said R. and B. lately in our court before our justices at Lancaster undertook; and each of them by himself did undertake for T. B. late of, &c.; and the same R. and B. acknowledged that the same sum should be levied upon his and their lands and chattels, to the use and behoof of J. P. as it appears to us upon record; and also of the lands and chattels of the said R. and B. you also cause to be made twenty-three pounds and eightpence, which to the same J. S. in our court according to the form of the statute in such case made and provided were adjudged for his costs and charges by him about his suit in that behalf laid out; and that you have the several sums of twenty-three pounds and eightpence, twenty-three pounds and eightpence, and twenty-three pounds sixteen shillings and eightpence, before our justices at Lancaster, the first day of, &c. to render to the said J. S. according to the recognizance, and for his costs and charges, whereof the said R. and B. are convicted; and whereupon it is considered in our said court, that the said J. have execution against the said R. and B. of the aforesaid several sums by them in form aforesaid acknowledged, and of the costs and charges aforesaid, to be levied of their lands and chattels respectively as aforesaid; and have you there this writ. Witness, &c.

GEORGE, &c. to the sheriff of Lancaster, greeting: We command you, that of the goods and chattels of J. F. late of and B. late of, the bail of W. B. in your bailiwick, you cause to be made twenty-one pounds eighteen shillings and two pence, which L. D. lately in our court before our justices at Lancaster recovered against the said W. B. for his damages which he had sustained, as well by reason of not performing certain promises and undertakings by him the said W. B. to the said L. D. lately made, as for his costs and charges by him about his suit in this behalf expended, whereof the said W. is convicted, as by the record and proceedings thereof in the same court remaining manifestly appears; whereof it is considered that the said L. D. may have his execution against the said J. and B. for the damages, costs, and charges aforesaid, according to the form and effect of a certain recognizance by them the said J. and B. in our said court before our said justices at Lancaster, for the said W. B. at the suit of the said L. D. in the suit aforesaid acknowledged, as by the record and proceedings aforesaid likewise appears; and have you that money before our justices at Lancaster, the first day of the next general, &c. to be paid to the said L. D. for his damages, costs, and charges aforesaid; and have, &c. Witness, &c.

Fi. fa. against  
bail after judg-  
ment by default  
on *fi. fa.*

If an executor plead *ne unques executor*, and if it be found for the plaintiff, the *fi. fa.* shall be *de bonis propriis*; but if he pleads *plene administravit*, and it be found for the plaintiff, then the *fi. fa.* shall be of the goods of the testator.

If the judgment be against an executor, then you must of necessity first have a *fi. fa. de bonis testatoris*, so also against an administrator, and if the sheriffs shall return a *devisavit* thereon, then you may have a *ca. fa.* against the body of the defendant, or else a

## WRITS FINAL.—FI. FA.—

*feri facias de bonis propriis*, or an *elegit*.

But it is used most commonly after a *devastavit* returned first to take a *fi. fa. de bonis propriis*, and to cause the sheriff to return upon it *nulla habet bona*, and then to have a *ca. fa.* against his body; but the *ca. fa.* may be first if the plaintiff pleads by law.

It was resolved by the court, that although the sheriff cannot break open a house to take execution by a *fi. fa.* yet if when the door is open he enters in and is disturbed by his execution by the parties who are within the house, he may break the house, rescue his bailiff, and take execution, Abr. Cro. Rep. 5.

If there be judgment against a man, who sells his goods before execution, these goods are not liable to a *fi. fa.* otherwise in debt concerning lands aliened, 102. Abr. Co. Lit. Upon judgment against an executor or administrator, the plaintiff cannot have a *ca. fa.* against the body, but *v. fi. fa. de bonis testatoris*; and if the sheriff do return a *devastavit*, then a *ca. fa.* lies against the body of the executor or administrator, or a *fi. fa.* against the goods, Buist. 7. 63. 98.

Debt on a bond against an heir, and judgment by *nil in lat.* if upon motion, the judgment being entered specially, and on prayer there be a special execution, it will charge the lands from the *test.* of the original; on a general one they might be aliened before execution, Cath. 50; Tho. 83; 2. Sho. 70; 9. Comm. 162; 7. Mod. 44; 2. Rol. 71. 50; See Co. Lit. 102, 103, 104; Stat. W. and M. of frauds by alienation, &c.; 2. Sho. 174.

A year after date of the warrant of attorney to confess judgment, the judgment not to be entered upon in B. R. without proof that parties are alive and debt satisfied, 2. Sho. 252; 7. Mod. 2. 91; 5. Salkeld, 87. (or 67.)

Upon a default, it appearing on the pleadings that execution was levied before the judgment was signed,

though after the first day of the term, to which the judgment related, and after the *teste* of the *fi. fa.* yet held nought, 2. Sho. 494. Agreed by the court, that on *fi. fa.* that when once the officers are in the house, they may break open any chamber, doors, or trunks, for doing their execution, 2. Sho. 87.

These three writs ought to be sued within a year and a day after judgment issued out within the year, and they may be continued after the year till execution. And to none of these writs defendant can plead to discharge himself of execution, as if plaintiff after judgment related to the defendant all executions, but is driven to his *audita querela*. 4. Leon. 197. 313; 2. Inst. 471; Dy. 214; 1. Rol. 104; 5. Cro. 10; 5. Cro. 112; Reg. 299; 7. Sho. 235; otherwise as to an *elegit* because continuances are entered all along from the judgment.

Upon motion for restitution to a possession which the party had been put out of by colour of a *fi. fa.* and tells a lease on term of a house, you cannot and must not put the person out of possession and the vendee in, but the lease must bring his reversion, 2. Sho. 85. ~~Vol. 2. 70.~~

Held, that after a *fi. fa.* delivered to the sheriff, and executed after the defendant's death, if it be tested before is good, notwithstanding the statute of frauds and perjuries, they being intended only for the benefit of purchasers and strangers, and not of the party or his executors, Skin. 257, 7. Mod. 681; Cro. 159; 2. Sho. 482. ~~Vol. 2. 70.~~

Upon the allowance of an *audita querela* suggesting a release, the release ought to be produced under seal, and received and approved in court by witness *viva voce*, Salk. 92. 1. Ro. 133.

No *audita querela* ought to be allowed but in open court, *Idem* 239, 241. It is a rule that you never shall have an *audita querela* upon any cause whereof you might have taken advantage by plea before judgment.

*ja.* after *fi.*  
*in assumpti*

GEORGE, &c. We command you, that of the goods and chattels of J. T. late of, &c. in your bailiwick, you cause to be made sixteen pounds two shillings and fivepence, which to J. B. lately in our court before our justices at Lancaster were adjudged for

# ALIAS WRIT OF FI. FA.—CA. SA:

for his damages which he hath sustained, as well by occasion of the not performing of several promises and undertakings by the said J. T. at P. in your county made, as for his costs and charges by him about his suit in this behalf expended; and that you have that money before our justices at Lancaster, the first day of, &c. there to be holden, to render to the aforesaid J. B. of the damages aforesaid, where if the said J. T. is convicted, as appears to us of record, and wherupon it is considered in our said court, that the said J. B. have his execution against the said J. T. of the damages aforesaid, according to the form and effect of the recovery aforesaid, by default of the said J. T.; and have, &c.

GEORGE, &c. to the sheriff, &c. Whereas by our writ, we heretofore commanded our then sheriff of Lancaster, that of the goods and chattels of P. W. late of Wygan in this county, butcher, in his bailiwick, he cause to be made as well a certain debt which Cr. Y. lately in our court before our justices at Lancaster recovered against him, as twenty six shillings and eight-pence, which to the said Cr. Y. in our same court were adjudged for his damages which he had sustained by reason of the detention of the debt, and that he should have that money before our justices at Lancaster at a certain day now past, to render to the said G. the cost and damages aforesaid, whereof he is convicted; and at that day the said Cr. Y. to wit, John Atherton, esquire, returned to our justices at Lancaster that he had caused to be made of the goods and chattels of the said P. the sum of five pounds one shilling and six pence, which money he had ready at the day and place aforesaid, and that the aforesaid P. hath no more goods or chattels.

(\*) This form is not completed.

GEORGE the Sheriff, &c. to, &c. We command you, that you take A. B. of , and C. D. of , the bail of E. F. if they may be found in your bailiwick, and then safely keep, so that you may have them before us at Westminster, on the first day after , to wit, Cr. H. when the said Cr. H. hath lately recovered against the said E. F. in our said court before us for his damages by him sustained as well on occasion of the not performing certain promises and undertakings made by the said E. F. to the said Cr. H. as for his costs and charges by him laid out about his suit in this behalf, whereof the said E. F. hath been convicted, as appears to us on record, and wherupon it hath been considered in our said court before us at Westminster, that the said G. H. should have his execution against the said A. B. and C. D. in our said court before us at Westminster aforesaid, for the damages, costs, and charges aforesaid, according to the force, form, and effect of certain recognizance by them the said A. B. and C. D. in our said court before us at Westminster, for the said J. B. at the suit of the said G. H. in the suit aforesaid acknowledged

# TEST. FI. FA.—FI. FA.—NON OMITTAS FI. FA.—

acknowledged by the defendant of them the said A. B. and C. D. as it likewise appears to us on record ; and also to satisfy the said G. H. for his damages, costs, and charges which the said G. H. hath had and been put unto on occasion of the said A. B. and C. D. they having pleaded to our writ of *scire facias* sued out against them at the suit of the said G. H. in that behalf, whereof the said A. B. and C. D. have been convicted, as also appears to us on record ; and have, &c. Witness, &c.

*fi. fa. at  
suit of executors  
after sci. fa. in  
C. B. in debt.*

GEORGE the Third, &c. to, &c.: We command you that you cause, &c. one of your bail of T. A. late of &c. as well a certain debt of      pounds, which G. S. lately deceased, in his lifetime recovered against him in our court before, &c. as      pounds, which in our same court were awarded to the said G. S. in his lifetime, for his damages which he sustained by reason of the detaining that debt; and have you that money before our, &c. in      , to render to W. D. executor, &c. of the said G. S. deceased, for the debt and damages aforesaid, whereof the said T. A. is convicted; and thereupon it is considered in our said court that the said W. D. have execution against the said T. A. of the debt, &c. by his the said      ; and have, &c.

*fa. in as-  
ter alias  
fa. and  
lition a-  
warded against  
bail, in B.R.*

GEORGE, &c. to, &c.: We command you that of the, &c. of W. S. &c. and W. P. of, &c. the bail of G. C. in your bailiwick you cause to be made      pounds, which J. F. late in our court before us recovered against the said G. C. for his damages which he had sustained, as well on account of not performing, &c. by the said G. C. to the said J. E. lately made, as for his costs, &c. whereof the said G. C. has been convicted, as appears, &c. and whereof in our same court before, &c. it is considered that the said J. E. have execution against the said W. S. and W. P. for the damages aforesaid, according to the force, form, and effect of a certain recognizance by them the said W. S. and W. P. in our said court before us for the said G. C. at the suit of the said J. E. in the suit aforesaid acknowledged, as it likewise appears, &c.; and have that money before, &c. on      to be paid to the said J. E. for his damages, &c.; and have, &c. Witness, &c.

*non omittas fi. fa.  
nisi an attor-  
in case on  
iies, in*

GEORGE the Third, &c. to, &c.: We command you that you do not omit by reason of any liberty in your county, but that you enter the same, and of the, &c. of A. R. gentleman, one of the attornies of our court, before us present in our said court in his proper person, in your bailiwick, you cause to be made      pounds, which T. B. lately in our court before us at Westminster recovered against him for his damages which he has sustained, as well by reason, &c. lately made by the said A. R. to the said  
T. B.

# FI. FA.—TEST. FI. FA.

T. B. as for his costs, &c. whereof the said A. R. is convicted, as appears, &c. ; and have you that money before us, &c. on to render to the said T. B. for his damages aforesaid ; and have, &c. Witness, &c.

GEORGE, &c. to our chamberlain, &c. : We command you that by our writ, &c. you command the same sheriff that he cause to be made, &c. of J. P. in his bailiwick pounds, which to E. B. in our court before, &c. were adjudged, &c. which he had sustained, as well, &c. made by the said J. P. and the said E. B. ; and that the said sheriff have that money before, &c. on to render to the said E. B. for his damages whereof the said J. P. is convicted ; and have, &c. Witness, &c.

GEORGE the Third, &c. to our chancellor, &c. : Whereas we lately commanded our sheriff of Middlesex, that of, &c. of J. P. and T. F. the bail of J. M. he should cause to be made pounds which A. M. lately in our court before, &c. recovered against the said J. M. for a debt, and also pounds, which to the said A. M. lately in our court before us were adjudged for her damages which she had sustained, as well on occasion of detaining that debt as for her costs, &c. whereof the said J. M. has been convicted, as appears, &c. and whereof in our same court before, &c. it is considered that the said A. M. have execution against the said J. P. and T. F. for the debt and damages aforesaid, according, &c. by them the said J. P. and T. F. in our said court before us for the said J. M. at the suit of the said A. M. in the aforesaid suit acknowledged, as it likewise appears, &c. ; and that the said sheriff should have that money before, &c. at a certain day, &c. to render to the said A. M. for her debt, &c. ; and our said sheriff of Middlesex, at that day returned to us that the aforesaid J. P. and T. F. has not, nor had either of them any goods, &c. in his bailiwick whereof he could cause to be made the debt and damages aforesaid, or any part thereof ; whereupon on the behalf of the said A. M. it is sufficiently testified in our said court before us, that the said J. P. and T. F. have sufficient goods, &c. in your bailiwick whereof the debt and damages aforesaid may be made and levied ; therefore we command you, that by our writ, &c. you command the same sheriff, that of the, &c. of the said J. P. and T. F. in his bailiwick he cause the said debt and damages to be made, &c. &c. so that, &c. that money before, &c. on to render to the said A. M. for the, &c. , and have, &c. Witness, &c.

GEORGE the Third, &c. to, &c. : Whereas we lately commanded our sheriff of Middlesex, that of, &c. of J. C. the bail of J. O. in his bailiwick, he should cause to be made , which J. F. lately in our court before, &c. recovered against the said J. O. for

# TEST. FI. FA. DE BONIS ECCLESIASTICIS—

for his damages which he had sustained, as well by reason of, &c. as for his costs, &c. whereof the said J. O. has been convicted, as appears, &c. and whereof in our same court before, &c. it has been considered that the aforesaid J. F. should have his execution against the said J. O. for the damages, costs, and charges aforesaid, according, &c. by him the said J. O. in our said court before, &c. for the said J. O. at the suit of the said J. F. in the suit aforesaid acknowledged, by the default of him the said J. O. as it likewise appears, &c. and also to satisfy the said J. F. for his, &c. which the said J. F. hath had and been put unto on account of the said J. O. having pleaded to our writ of *scire facias* sued out against him at the suit of the said J. F. in that behalf, whereof the said J. O. hath also been convicted, as also appears, &c.; and that the said sheriff should have that money before, &c. at a certain day now past, to render to the said J. F. for his damages, costs, and charges aforesaid; and our said sheriff of Middlesex at that day returned to us, that the aforesaid J. C. had not any goods and chattels in his bailiwick wherof he could cause to be made his debt and damages, &c. or any part thereof; whereupon on the behalf of the said J. F. it is sufficiently testified in our said court before us, that the said J. C. has sufficient goods and chattels in your bailiwick whereof the damages aforesaid, &c. may be made and levied; wherefore we command you, that of &c. of the said J. C. in your bailiwick you cause the damages, &c. to be made and levied, so that you, &c. have that money before, &c. on , to render to the said J. F. for the damages, costs, and charges aforesaid; and have you, &c. Witnesses, &c.

*fi. fa. de ecclesiasticis* **GEORGE** the Third, &c. to the right reverend father in God James lord bishop of Worcester, greeting: We command you, that *bishop of* of the ecclesiastical goods of J. W. vicar of the parish church of B. *ster, in* in our county of Worcester in your diocese you cause to be made, *to sequester the de-* which J. D. lately in our court before us at Westminster recovered *nt's living,* against him, and also pounds, costs, which to the said J. D. *R.* in our said court before us were adjudged for his damages which he sustained, as well by reason of the detention of that debt as for his, &c. whereof the said J. W. is convicted, as appears, &c. and whereof in our court before us at Westminster it is considered that the said J. D. may have his execution against the said J. W. for the debt and damages aforesaid; and have that money before us at Westminster on next after , to be paid to the said J. D. for his, &c. and whereof our sheriff of Middlesex hath returned to us at Westminster on in this same term, the said J. W. had not any goods in his bailiwick wherof he could cause to be made the debt and damages aforesaid, or any part thereof, and did certify that the said J. W. was a beneficed clerk, to wit, vicar of the parish and parish church of B. in our county of Worcester in your diocese; and have, &c. Witnesses, &c.

Tested any day after return of the first writ.

**GEORGE**

# TEST. FL. FA.

GEORGE the Third, &c. to the sheriff of Yorkshyre, greeting: *Test. fl. fa. 4*  
 Whereas we lately commanded our chancellor of our county pala- *of Lancaster*  
 tine of Lancaster, that he, by virtue of our writ to him directed, *to Yorkshyre,*  
 should by another writ under the seal of our county palatine of Lan- *B. R.*  
 caster to be duly made out, and to be directed, &c. of the said  
 county palatine, should command the same sheriff, that of the  
 goods, &c. of J. P. in his bailiwick he should cause to be made  
 pounds, which J. K. lately in our court before us recovered  
 against him for a debt, and also pounds, which to the said J. K.  
 lately in our said court before us were adjudged for his damages  
 which he had sustained, as well by reason of the detaining that debt  
 as for his costs, &c. whereof the said J. P. was convicted, as ap-  
 pears, &c.; and that the said chancellor should have that money  
 before, &c. at a certain day now past, to be rendered to the said J. K.  
 for his, &c.; and our chancellor of our said county palatine at that day  
 returned to us that he, by virtue of our said writ to him directed,  
 had by another writ under the seal of our said county palatine, duly  
 made out and directed to the sheriff of the same county, command-  
 ed the same sheriff, as by our writ he was commanded, who re-  
 turned to our said chancellor that the said J. P. had not any goods  
 or chattels in his bailiwick whereof he could cause to be made the  
 debt and damage aforesaid, or any part thereof, whereupon on  
 the behalf of the said J. K. it is sufficiently attested in our court  
 before us that the said J. P. hath sufficient, &c. in your county  
 whereof the debt and damages aforesaid may be made and levied;  
 therefore we command you, that of, &c. of the said J. P. in your  
 bailiwick you cause the debt and damages aforesaid to be made and  
 levied; and that you, &c. before, &c. on , to render, &c.;  
 and have, &c. Witness

GEORGE, &c. to our chamberlain, &c.: Whereas we lately *Test. fl. fa. 4*  
 commanded our chancellor of, &c. that by our writ, &c. he should *gainst bar*  
 command the same sheriff that of the goods, &c. of L. K. &c. and *Lancaster*  
 N. M. of, &c. the bail, of D. J. in his bailiwick he should cause *Chelster, in*  
 to be levied pounds, which R. F. and P. H. have lately in our *assumpsit*  
 court before, &c. recovered against the said D. J. for their debt and  
 damages which they had sustained, as well by reason of the not, &c.  
 made by the said D. J. unto the said R. F. and P. H. as for their  
 costs, &c. whereof the said D. J. hath been convicted, as appears,  
 &c. and whereof in our same court before, &c. it has been con-  
 sidered that the said R. F. and P. H. should have their execution  
 against the said L. K. and N. M. for the damages, costs, and  
 charges as aforesaid, according to the force, form, and effect of  
 a certain recognizance by them the said L. K. and N. M. in our  
 said court before, &c. for the said D. J. at the suit of the said R. F.  
 and P. H. in the suit aforesaid acknowledged, by the default of the  
 L. K. and N. M. as it likewise appears, &c.; and that the said  
 chancellor should have that money before, &c. at a certain day, &c.  
 to render to the said R. F. and P. H. for their damages, &c.; and  
 our

WRITS FINAL.—TEST. FI. FA.—

our said chancellor of our said county palatine of Lancaster at that day returned to us that he by another writ under the seal of the county palatine duly, &c. and directed to the sheriff of the said county, had commanded the said sheriff as within he was commanded; which said sheriff thereupon returned that the aforesaid L. K. and N. M. had not any goods, &c. in his bailiwick whereof he could cause to be made the damages, &c. or any part thereof; whereupon on the behalf of the said R. F. and P. H. it is sufficiently testified in our said court before us, that the said L. K. and N. M. have sufficient goods and chattels in our said county palatine of Chester whereof the damages, &c. may be made and levied; wherefore we command you that by our writ, &c. you command the said sheriff that of the, &c. of L. K. and N. M. in his bailiwick he cause the damages to be made and levied, so that you have that money before us, &c. on next, to render to the said R. F. and P. H. for the, &c.; and have, &c.; Witneis, &c;

*It is said in* GEORGE the Third, &c. to, &c.: We command you that *on promi-* of, &c. of sir T. K. bart. the said sir T. K. having privilege of *against a* parliament you cause to be made pounds, which J. B. and *member of par-* J. L. assignees, &c. of A. D. a bankrupt, lately in our court be- *liament, at the* fore Alexander lord Loughborough and his companions then jus- *of the af-* tices of our court of C. B. recovered for their, &c. which they, as *ess of a* assignees as aforesaid, had sustained, as well by reason of the not, *rupt, on* &c. then lately made by the said sir T. K. to the said A. D. before *cessurance of* he became a bankrupt, as for the costs, &c. of the said J. B. and *ment in* J. L. assignees as aforesaid, about their suit in that behalf expended, *out of* whereof the said T. K. was convicted as, &c. as also pounds, *C. B. to B. R.* which to the said J. B. and J. L. in our court before us, according, &c. were adjudged for their damages, costs, &c. which they had sustained and expended by reason of the delay of execution of the judgment aforesaid by means of prosecuting our writ of error by him the said sir T. K. of and upon the judgment aforesaid prosecuted, whereon the same judgment was in our said court before us affirmed, and whereof the said sir T. K. is convicted, as by the record and proceedings now remaining in our court before us more fully appears: and that, &c. that money before us, on where- tover, &c. to render to the said J. B. and J. L. for their damages, &c. whereof the said sir T. K. is convicted, and whereof the said sheriff of Middlesex hath certified to our, &c. at a certain day, &c. that the said sir T. K. had no goods or chattels in his bailiwick whereof the damages aforesaid, or any part thereof, could be made or levied; whereas it is sufficiently testified in our same court that the said sir T. K. hath sufficient goods and chattels in your said county whereof the damages, costs, &c. may be made and levied; and have, &c. Witneis, &c.

GEORGE,

# TEST. FI. FA.—FI. FA.

GEORGE, &c. to our chancellor, &c.: Whereas we lately commanded our sheriff of Y. that of the goods and chattels of J. S. in his bailiwick he should cause to be made pounds, which in our court before us had been awarded to A. B. and J. B. executors, &c. of E. B. deceased, according to the form, &c. for their costs and charges which they had sustained by reason of the said J. S. not prosecuting his writ with effect in a certain plea of trespass on the case sued out by him against the said A. B. and J. B. as executors as aforesaid; and that the said sheriff should have that money before, &c. at a certain, &c. to render to the said A. B. and J. B. for their costs and charges, whereof the said J. S. had been convicted; and our said sheriff of Y. at that day returned to us, that the said J. S. had not any goods and chattels in his bailiwick, whereof he could cause to be made the said costs and charges, or any part thereof; whereupon on the behalf of the said A. B. and J. B. it is sufficiently testified in our said court before us that the said J. S. hath sufficient goods and chattels in your county whereof the costs, &c. may be made and levied; therefore we command you that by our writ, &c. you command the same sheriff, that of the goods and chattels of the said J. S. in his bailiwick he cause the said costs and charges to be made and levied, so that you may have that money before, &c. on , to render to the said A. B. and J. B. for their, &c.; and have, &c. Witness, &c.

*Tib. fi. fa.*  
suit of execu-  
tors, out  
Yorkshire  
Lancaster, on  
non-suit.

GEORGE, &c.: We command you, that of, &c. which were of L. L. deceased, at the time of his death in the hands of E. P. and L. P. executors, &c. of the said L. L. to be administered in your bailiwick you cause to be made pounds, which F. S. and M. his wife, administratrix, &c. which were of T. W. her former husband, deceased, who died intestate, lately in our court before, &c. recovered against L. L. in his lifetime, for their damages which they sustained, as well by reason of the, &c. lately made by the said L. L. in his lifetime unto the said F. S. and M. as for their, &c. whereof the said L. L. was convicted, as appears, &c.; and whereupon in our said court before us, by virtue of our writ of *sci. fa.* in that behalf it was considered, that the said F. S. and M. his wife might have their execution of the damages aforesaid, against the said E. P. and L. P. executors of, &c. of the said L. L. deceased, as aforesaid, of the goods and chattels which were of the said L. L. deceased, at the time of his death, in the hands of the said E. P. and L. P. to be administered, as also appears, &c.; and also that you cause to be made of the, &c. which were of L. L. deceased, at the time of his death in the hands of the said E. P. and L. P. to be administered, if they have so much in their hands to be administered; but if not, then that you cause to be made of the proper goods and chattels of the said E. P. and L. P. which to the same F. S. and M. in our exchequer chamber before our justices of the bench and the barons of our exchequer of the degree of the coif there, according to the form, &c. were adjudged for their damages, &c. which they had sustained by reason of the delay of execution of the judg-

*Fi. fa. in ex-*  
on promise  
on an affi-  
ance, of  
ment in  
the court of  
chequer  
executors  
suit of an  
administratrix.

ment

# WRITS FINAL.—FI. FA.—

ment aforesaid, and of the adjudication of the execution of the said judgment by means of prosecuting our writ of error by them the said E. P. and L. P. of and upon the judgment aforesaid, and the adjudication of the execution of the judgment aforesaid prosecuted, whereof the said E. P. and L. P. are convicted, upon which said writ of error the said judgment and adjudication of the execution of the said judgment were in the same court in all things affirmed, as by the inspection of, &c. thereof remitted from the said court of exchequer chamber into our same court before us now remaining, in all things affirmed, appears likewise to us on, &c.; and have you that money before, &c. on , to render to the aforesaid F. S. and M. for their damages, &c.; and have you, &c.

GEORGE, &c. to our chancellor, &c.: Whereas we lately commanded you, that by our writ, &c. you should command the same sheriff that he should cause to be made out of the goods and chattels of J. S. in his bailiwick        pounds, which J. B. had lately in our court before, &c. recovered against the said J. S. for his damages which he had sustained, as well by reason of the not, &c. lately made by the said J. S. to the said J. B. as for his costs, &c. whereof the said J. S. had been convicted as &c.; and that you, &c. that writ; at which day you returned to us that you had by virtue of that writ to you directed and delivered by another writ under the seal of the said county palatine of Lancaster, and directed to the sheriff of the same county, commanding the said sheriff, as by the said writ you was commanded, which said sheriff, to wit, G. H. esquire, in answer to the said writ said, that by virtue of the said writ to him directed and delivered he had caused to be made of the goods and chattels of J. S. the sum of        pounds, which said money he had ready before us at that day and place in the said writ contained, to render to the said J. B. in part of the damages aforesaid; and the said sheriff did further certify, that the said J. S. had no other goods or chattels in his bailiwick whereof he could cause to be made the residue of the said damages as he was within commanded; therefore we command you that by our writ, &c. you command the said sheriff, that he cause to be made of the goods and chattels of the said J. S. in his bailiwick        pounds, being the residue of the damages aforesaid; and have you that money before us, &c. on , to render to the said J. B. for his damages aforesaid; and have, &c.

GEORGE, &c. to, &c.: We command you, that by our writ, &c. you command the same sheriff that of the goods and chattels of the men inhabiting in the hundred of        in our said county palatine, being in the bailiwick of the said sheriff, he cause to be made        pounds, which to T. R. lately in our court before us, &c. were adjudged for his damages which he had sustained, as well by reason of the unlawful, riotous, and tumultuous assembly of divers persons to the number of twelve and more, at        in the said hundred,

TEST. FI. PA.—FI. PA.

dred, of        pounds, and in the said county palatine of Lancaster, and then and there unlawfully and feloniously, and with force demolishing in part a dwelling-house of the said T. R. situate in aforesaid, in the hundred and county aforesaid, together with the furniture therein, as for his costs, &c. by him about his suit in this behalf expended, whereof R. E. and P. R. two of the men inhabiting the hundred and county aforesaid, have been convicted as, &c.; and have that money before, &c. on       , to render to the said T. R. for his, &c. according to the, &c.; and have, &c.

Indorfed.—The within damages are to be levied according to the directions of the statute of 8. Geo. 2. c. 16. and 22. Geo. 2. c. 46.

GEORGE the Third, &c. to our chamberlain, &c.: Whereas we lately commanded our sheriff of Middlesex, that of the goods and chattels of T. J. late of, &c. in his bailiwick he should cause to be made        pounds, which M. M. recovered against him for a debt, and also        pounds, which to the said M. M. in our court before our, &c. were adjudged for his damages which he had sustained, as well by reason of the detaining that debt as for his, &c. whereof the said T. J. is convicted as aforesaid; and that the said sheriff should have that money before our, &c. at a certain day, &c. to render to the said M. M. for his, &c.; and whereof our said sheriff of Middlesex hath certified to our, &c. at a certain day, &c. that the said T. J. had no goods or chattels in his bailiwick whereof the debt, &c. or any part thereof, could be made and levied; whereas it is testified in our same court here before our justices that the said T. J. hath sufficient goods and chattels in our said county palatine whereof the debt, &c. may be made and levied; therefore we command you, that by your writ, &c. you command the same sheriff that he cause to be made of the goods and chattels of the said M. M. in his bailiwick the debt, &c. so that you may have that money before our, &c. on       , to render to the said M. M. for his, &c.; and have, &c. Wit-  
ness, &c.

*Test. J. P.  
debt, our  
Middlesex  
Chester, &c.*

GEORGE, &c. to, &c.: We command you, that of the, &c. J. E. being in your bailiwick you cause to be made        pounds, which in our court before, &c. by the direction of the same court, according to, &c. lately were adjudged to R. L. and R. W. for their, &c. by them sustained in and about their defence in a certain action of trespass on the case lately unjustly prosecuted in our same court before us against them by the said J. E. as appears by a certain jury of the country thereupon taken, whereof the said J. E. is convicted; and have you that money before, &c. on        next, to render to the said R. L. and R. W. for their, &c.; and have you, &c.

*Test. J. P.  
on a  
suit at the  
K. B.*

GEORGE.

WRITS FINAL.—FI. FA:—TEST. FI. FA.—

a GEORGE, &c. to our chancellor, &c. : We command you, of that by our writ, &c. you command the same sheriff that of the &c. of T. S. in his bailiwick he cause to be made pounds, which to B. J. in our court before, &c. according, &c. lately made, &c. were adjudged for his costs and charges about his defence in a certain action of trespass against him the said B. J. at the suit of the of the said T. S. in our same court before, &c. sustained, whereof he is convicted as, &c. ; and have that money before, &c. on to be paid to the said B. J. for his costs and charges aforesaid ; and have, &c.

GEORGE, &c. to our chancellor, &c. : We command you, that by our writ, &c. you command the same sheriff that of, &c. of J. B. in his bailiwick he cause to be made pounds, which to T. T. in our court before, &c. according, &c. lately were adjudged for his, &c. which he had sustained, for that the said J. B. had not prosecuted his writ by him the said T. T. obtained in our court against the said J. B. in a certain plea of trespass, whereof the said J. B. is convicted as, &c. ; and have that money before, &c. on, &c. to be paid to the said T. T. for his, &c. ; and have &c.

*for out  
selex in-  
after.* GEORGE the Third, &c. to our chancellor, &c. : Whereas we lately commanded our sheriff of Middlesex, that he should cause to be made of the goods and chattels of D. R. and S. R. in his bailiwick, as well a certain debt of , which J. C. and S. P. had lately in our court before us at Westminster recovered against the said D. R. and S. R. as also , which to the said J. C. and S. P. had been adjudged for their damages which they had sustained, as well by reason of the detaining that debt as for their costs, &c. laid out by them about their suit in that behalf, whereof the said D. R. and S. R. were convicted as appears, &c. ; and that the said sheriff should have that money before us at Westminster at a certain day now past, to be rendered to the said J. C. and S. P. for their debt and damages aforesaid ; and our said sheriff of Middlesex at that day returned to us that the said D. R. and S. R. had not any goods or chattels in his bailiwick, whereof he could cause the debt and damages aforesaid, or any part thereof, to be made and levied : And whereas it is thereupon sufficiently testified in our court before us, that the said D. R. and S. R. have sufficient goods and chattels in our said county palatine, whereof the debt and damages aforesaid might be made and levied : And whereas we therefore lately by our writ of *testatum fieri facias* commanded our chancellor of our said county palatine that by our writ under the seal of our said county palatine duly to be made out and to be directed to the sheriff of the same county, he should command the same sheriff that of the goods and chattels of the said D. R. and S. R. in his bailiwick he should cause the debt and damages sustained

# WRITS FINAL.—FI. FA.—RETURN.

aforesaid to be made and levied, so that the said sheriff should have that money before us at Westminster, on , to render to the said J. C. and S. R. for their debt, &c.: And our said chancellor of our said county palatine at that day returned to us, that by virtue of that writ to him directed and delivered, by another writ under the seal of the said county palatine, and directed to the sheriff of the said county, he commanded the said sheriff, as he was by the said writ of *fieri facias* commanded, which said sheriff, to wit, , in answer to our said writ of *testatum fieri facias* said, that by virtue of the said writ to him directed and delivered, he had caused to be made of the goods and chattels of the said D. R. and S. R. in part of the debt, &c. which money he had ready before us at the day and place aforesaid, to render to the said J. C. and S. P. as he was by the said writ commanded, and that the said D. R. and S. R. had not, nor had either of them any goods, &c. in his bailiwick whereby or wherewith he could make the residue of the debt, &c. or any part thereof; and now on behalf of the said J. C. &c. it is further sufficiently testified in our court before us that the said D. R. and S. R. have sufficient goods and chattels in our said county palatine whereof the residue of the said debt, &c. may be made and levied; therefore we command you, that by our writ under the seal of the said county palatine duly to be made out and to be directed, &c. you command the same sheriff that of, &c. of the said D. R. and S. R. in his bailiwick he cause , the residue of the debt, &c. to be made and levied, so that the said sheriff have that money before us, &c. on , to render to the said J. C. and S. P. for the residue of the debt and damages aforesaid; and have, &c.

GEORGE, &c. to our chancellor, &c.: We command you, *Fi. fa. de* that by our writ under the seal of our said county palatine to be *ecclesiasticis* duly made out, and to be directed to the sheriff of the said county, *the county* you command the said sheriff that of the goods and chattels of the *laine of* reverend W. P. clerk, in his bailiwick, he cause to be made *caster.* which A. B. lately in our court before us, &c. recovered against him for a debt, and also for his damages which he had sustained, as well by reason of the detaining that debt as for his costs and charges laid out by him about his suit in that behalf, whereof the said W. P. is convicted, as appears, &c.; and have you that money before us at Westminster, on , to render to the said A. B. for his debt and damages aforesaid; and have you, &c. Witness, &c.

By virtue of this writ to me directed and delivered by another *The retur* writ under the seal of the county palatine of Lancaster within men- *the right* tioned, and directed to the sheriff of the said county, I command *T. earl of* am commanded, which said sheriff, to *chancellors* the said writ saith, that the execution of *county, p* appears in a certain schedule hereunto *of Lancast* this writ.

annexed. By the same chancellor.

## WRITS FINAL—FI. FA.—ELEGIT.

The reverend W. P. clerk, in the annexed writ named hath not any goods or chattels in my bailiwick whereby or wherout I can levy the debt and damages therein mentioned, or any part thereof, as within I am commanded; but I do hereby certify, that the said W. P. is a clerk beneficed in my bailiwick, to wit, rector of the parish and parish church of A. in my county, which said rectory and parish church of A. lieth within the archdeaconry of Chester, in the diocese of the right reverend father in God , by divine providence, lord bishop of Chester.

W. B. esquire, sheriff.

*Test. fi. fa by* **GEORGE** the Third, &c. to, &c : Whereas we lately com-  
*manded our* **manded** our chancellor of our county palatine of Lancaster, that  
*by our writ* **by** our writ under the seal of our said county palatine duly to be  
*made out,* **made out,** and to be directed to the sheriff of the same county, he  
*should command* **should command** the same sheriff, that of the goods and chattels of  
**F. W.** late of in the county of , gentleman, in his baili-  
**wick** he should cause to be made, as well a certain debt of ,  
**which** M. W. and S. W. executrix and executor of the last will  
**and testament** of F. W. deceased, lately in our court before our  
**justices, &c.** recovered against the said F. W. as also , which  
**to the said** M. W. and S. W. in our said court were adjudged for  
**their damages,** as well by reason of the detaining that debt as for  
**their costs and charges** by them laid out about their suit in that be-  
**half,** whereof the said F. W. is convicted, as appears, &c.; and  
**that the said** chancellor should have that money before our justices,  
**&c. at a certain day** now past, to be rendered to the said M. W.  
**and S. W. for their debt, &c.;** and our chancellor of our said  
**county palatine** at that day returned to us, that he by virtue of our  
**said writ** to him directed had by another writ under the seal of our  
**said county palatine** duly made out, and directed to the sheriff of  
**the same county,** commanded the same sheriff, as by the said writ  
**he was commanded,** who returned to our said chancellor that the  
**said F. W.** had not any goods or chattels in his bailiwick whereof  
**he could cause** to be made the debt, &c. or any part thereof, where-  
**upon on the behalf** of the said M. W. and S. W. it is sufficiently  
**attested in our** said court before our justices, &c. aforesaid, that  
**the said F. W.** hath sufficient goods and chattels in your said county  
**whereof the debt and damages** aforesaid may be made and levied,  
**therefore we command** you, that of the goods and chattels of the  
**said F. W.** in your bailiwick you cause the debt and damages  
**aforesaid to be made and levied,** and that you have that money be-  
**fore our justices, &c. on** , to render to the said M. W. and  
**S. W. for the debt and damages** aforesaid; and have, &c. Wit-  
**ness, &c.**

**GEORGE**

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster or to his deputy there, greeting: Whereas <sup>An elegit into Lancaster in</sup> O. X. lately in our court before us at Westminster by bill without <sup>debt, in B. R.</sup> our writ, and by the judgment of the same court recovered against Q. Z. of debt, and also for his damages which he had sustained, as well by means of the detaining the said debt as for his costs and charges by him about his suit in that behalf expended, wherof the said Q. Z. was convicted as, &c. ; and because the said O. X. came by his attorney in our court before us, according to the statute in such case, &c. and elected to be delivered to him all the goods and chattels of the said Q. Z. (except the oxen and beasts of the plough), and also a moiety of all the lands and tenements of the said Q. Z. in the bailiwick of the said sheriff of your county, of which the said Q. Z. was seised on the day on which the said judgment was given, or at any time afterwards, to hold the same goods and chattels as his own proper goods and chattels, and also to hold the said moiety of all the said lands and tenements as his freehold to him and his assignees, by a reasonable price and extent, according to the form, &c. until he shall have fully thereof levied the said debt and damages, therefore we command you, that by our writ under the seal of our said county palatine duly to be made out, and to be directed to the sheriff of the same county, you command the same sheriff, that without delay he cause to be delivered to the said O. X. by a reasonable price and extent all the goods and chattels of the said Q. Z. in his bailiwick (except the oxen, &c. ), and also a moiety of all the lands and tenements of the said Q. Z. in his bailiwick of which the said Q. Z. was seised, on next after, on the day of in the year, &c. at which time the judgment was given, or at any time afterwards, to hold the said goods and chattels as his own proper goods and chattels, and also to hold the said moiety of all the lands and tenements as his freehold to him and his assignees, according to the form of the statute, until he shall have levied thereof the said debt and damages, and in what manner the said sheriff shall have executed this our writ make appear to us at Westminster on, &c. under his seal and the seals of those by whole oath he shall make such extent and appraisement, and have you, &c. Witnesses, &c.

GEORGE the Third, &c. to, &c. Whereas A. B. widow, <sup>An elegit in assumpsit, in C. B.</sup> lately in our court before our justices at Westminster, by the judgment of the same court hath recovered against S. S. late of, &c. in your county, yeoman, which in our court were adjudged to the said A. B. for her damages which she sustained by reason of the not performing, &c. made to the said A. B. by the said S. S. at in your county, wherof the said S. S. is convicted; and afterwards the said A. B. came into our said court according to the form, &c. and chose to have delivered to her all the goods and chattels of the said S. S. (except his oxen and beasts

# WRITS FINAL.—FI. FA.—MESNE AND JURY

of his plough), and in like manner a moiety of all his lands and tenements in your bailiwick, to hold the same goods and chattels as her own proper goods and chattels, and also to hold the said moiety as her freehold to her and her assigns, according to the form of the aforesaid statute until the said damages shall be thereof levied; therefore we command that all the goods and chattels of the said S. S. (except the oxen and beasts of his plough), and in the like manner a moiety of all his lands and tenements in your bailiwick whereof the said S. S. on next after , on the day of , in the year, &c. on which day judgment thereof was given, or at any time after was seized to her the said A. B. forthwith you cause to be delivered at a reasonable price and value, to hold the said goods and chattels to her as her own proper goods and chattels, and also to hold the said moiety of her freehold to her and her assigns, according to the form of the statute, until the said damages shall be thereof levied; and as soon as you shall have executed this our command you shall make it appear to our justices at Westminster, on , under your seal and the seals of those by whose oaths you shall make that value and appraisement; and have you, &c. Witness, &c.

GEORGE the Third, &c. to the Sheriff of Suffolk, greeting :  
 We command you, that you cause to be made of the goods and chattels in your bailiwick of John Hunton six pounds eleven shillings, being the amount of certain arrearages of rent, adjudged to Theodosia Peck in our court before our justices at Westminster, according to the form of the statute in such case made and provided, and sixteen pounds which in our said court before our justices aforesaid were adjudged to the said Theodosia for the costs and charges by her laid out in and about her defence in a certain plea of taking and detaining the goods and chattels of the said John lately depending in the same court, whereof the said John Hunton is convicted as appears to us of record; and have you that money before our justices at Westminster on , to render to the said Theodosia for the arrearages, costs, and charges aforesaid; and have there then this writ. Witness Alexander lord Loughborough at Westminster the day of , in the thirtieth year of our reign.

GEORGE, &c. to our chamberlain of our county palatine of Chester, or his deputy there, greeting : The tenor of a certain record which is depending in our court before us at Westminster between A. B. plaintiff, and C. D. defendant, of a plea, &c. we send you inclosed in these presents, commanding you, that by our writ under the seal of our said county palatine duly to be made out you cause the said record to be sent to the mayor of the city of

## PROCESS—MITTIMUS.

of Chester and county of the same city, commanding the said mayor, that for trying the issue in the said record specified the said mayor do command the sheriffs of the said city of Chester and county of the same city, that they cause to come before the said mayor at a certain day and place by the said mayor to be appointed after the record shall be delivered to him twelve free and lawful men of the body of the city aforesaid and county of the same city, each of whom to have ten pounds a-year at least in lands, tenements, or rents, by whom the truth of the matter in question may be the better known and enquired into, and who are in nowise of kin either to the said A. B. or to the said C. D. to recognize and make a certain jury of the county between the said parties in the plea aforesaid, because as well the said A. B. as the said C. D. between whom the variance is, have put themselves upon that jury, and lastly, that the said mayor make such further process against the said jurors to be impanelled between the said parties as according to the law and custom of the said city and county of the same city in this behalf are used and commonly made until the issue aforesaid between the parties aforesaid shall be fully tried, and when the verification of the issue aforesaid shall have then been made and tried, then the said mayor shall send to you the record of the plaint aforesaid, with every thing that shall have been done thereupon before him, so that you have the said record before us at Westminster and this writ at a certain day which the said mayor shall appoint to the said parties to be in our said court here to hear judgment thereupon. Witness, &c.

GEORGE, &c. to our justices of our county palatine of Lancaster, greeting: The tenor of a certain record before us at Westminster between A. B. plaintiff, and C. D. defendant, in a plea of trespass on the case, we send you inclosed herein, commanding that you, having inspected the same by our writ of our said county palatine, do command the sheriff of the same county, that he cause twelve free and lawful men of the body of the same county palatine to come before you at the next sessions then to be holden after this writ shall be delivered to you, each of whom to have ten pounds per year at least of lands, tenements, or rents, by whom the truth of the matter may be the better known and enquired into, and who are in nowise related to the said C. D. or the said A. B. to recognize and make a certain jury of the county between the said parties of the plea aforesaid, because as well the said C. D. as the said A. B. between whom the controversy is, have put themselves, &c. and also that you make such further proceedings against the said jurors so to be impanelled between the said parties as are in this behalf used and commonly made, according to the law and custom of the said county until the issue aforesaid between the said parties shall be fully tried, and when the verification and issue aforesaid be then made and tried before us, then do you send the record of the plaint aforesaid, together with

*Mittimus.*  
annexed  
record  
county  
of Lanc

## ENTRIES, &c.—PLEA AND JUDGMENT—

every thing that shall then and there be done before you therein and also this writ to us at Westminster at a certain day which you shall appoint to the said parties to be there to hear judgment thereupon. Witnesses, &c.

[To be signed and sealed.]

Entry, where  
the defendant  
pleads and the  
other defendant  
suffers judgment  
by default.

AND now at this day, that is to say, next after in this same term, until which day C. D. and E. F. had leave to imparl to the aforesaid bill, and then to answer the same as they should be advised, come before our said lord the king at Westminster, as well the said A. B. by his attorney, as the said C. D. by his attorney; and the said (a) C. D. defends the force and injury laid to his charge by the said A. B. in his declaration aforesaid, which he will be ready to defend when, where, and in such manner and form as the said A. B. above thereof complains against him; and of this he puts himself upon the country; and the said A. B. doth the like: And the said E. F. although on the same day solemnly called comes not, nor says any thing in bar or denial of the aforesaid action of the said A. B. whereby the said A. B. remains therein against the said E. F. without defence; therefore it is considered that the said A. B. ought to recover against the said E. F. his damages by reason of the *trespass* aforesaid, because the said court of our said lord the king now here doth not know what damages the said A. B. hath in this behalf sustained, and also because it is necessary and convenient that only one assessment of damages shall be made for the whole *trespass* specified in the declaration, and that those damages ought to be set by the same jury of the county; and if it shall happen that a verdict should be given against the said (b) C. D. for the said A. B. upon the issue above joined between them; therefore as well to try the said issue between the said A. B. and the said C. D. above joined to be tried by the country as to enquire what damages the said A. B. hath sustained by reason of the *trespass* aforesaid above committed by the said E. F. let a jury come before our said lord the king at Westminster, on , who are in no wise related or of kin either to the said A. B. or to the said C. D. and E. F. to recognize on their oath the full truth of and concerning the premises, because as well the said C. D. as the said A. B. between whom the aforesaid matter in variance is, have put themselves upon that jury. The same day is given to the said A. B. and C. D. there, &c.

(a) The defendant who pleads. This is in *trespass* if in case (See post.)

(b) The person first taking issue.

[If in *assumpsit*, and *non-assumpsit* pleaded, then as follows:]

[As above till.] And the said C. D. defends the wrong and injury laid to his charge by the said A. B. in his declaration aforesaid, which he will be ready to defend when, where, and in such manner as this court shall award, and says, that he the said C. D. and

# BILL OF MIDDLESEX—SATISFACTION—CA. SA.

the said E. F. did not promise and undertake in manner and form as the said A. B. hath above complained against them; and of this he the said C. D. puts himself upon the country, &c. [only instead of the word "trespass," say, "not performing the several promises and undertakings."]

*form of pleading - v. 4*  
*and one - 87*

MIDDLESEX, to wit. The sheriff is commanded to &c. [recite the bill.]

LEE and ANTHONY.

of Middlesex  
the roll to &  
the statute  
imitations,

At which day, before our lord the king at Westminster came the said A. B. and C. D. the plaintiffs, in their proper persons, and offer themselves against the said E. F. the defendant, in the plea and bill aforesaid; and the sheriff of Middlesex, to wit, William Peers, esquire, and William Nash, esquire, returned that the aforesaid E. F. is not found in his bailiwick.

*with*  
*oil*  
*take*

*Jeffrey - Black Sep 47.*

MIDDLESEX, to wit. J. T. late of, &c. in the county of, &c. esquire, was summoned to answer B. H. in a plea, that he render to him five hundred pounds which he owes to him, and unjustly detains, &c.

Entry of satisfaction upon judgment debt, in C. 1

Afterwards, to wit, the sixteenth day of July, in, &c. came the said B. H. by G. N. his attorney, appointed by special warrant in this behalf before, one of the justices of our sovereign lord the king of the bench, at his chambers, in Serjeant's Inn, Chancery Lane, London, and acknowledged that he was satisfied the said debt and damages; therefore the said J. is acquitted of the same debt and damages, &c.

Acknowledged the day and year  
aforesaid, before J. H. }

AFTERWARDS, that is to say, on the third day of April in this same term, the said J. A. comes here into court by his attorney aforesaid, and prays the writ of our lord the king of *ad satisfaciendum* to be directed to the sheriff of Middlesex, commanding him that he take the said J. P. if he be found in his bailiwick, and him safely keep, so that he may have his body before our said lord the king at Westminster on Wednesday next after one month from the day of Easter to satisfy the said J. A. the damages aforesaid, and it is granted to him; the same day is given to the said J. A. at the same place; at which day, before our said lord the king at Westminster, comes the said J. A. by his attorney aforesaid, and the sheriff, to wit, sheriff of Middlesex aforesaid, thereupon returns to our said lord the king at Westminster aforesaid that the said J. P. is not found in his bailiwick; [whereupon the said J. A. prays another writ of our said lord the

Entry of capias ad satisfaciendum and continuance, by *non misit breve*. Query, as to *u.* if for damages only.

## ENTRIES of WRITS.—FL. FA.—TEST. FL. FA.

king of *capias ad satisfaciendum* to be directed to the said sheriff of Middlesex, commanding him in form aforesaid, and it is granted to him, returnable before our said lord the king at Westminster on Friday next after the morrow of the Holy Trinity; the same day is given to the said J. A. at the same place; at which day, before our said lord the king at Westminster, comes the said J. A. by his attorney aforesaid, and the sheriff hath not sent the said last-mentioned writ, nor hath he done any thing thereupon; whereupon, &c. &c. [here add another continuance the same as within the crotchers]; whereupon on the behalf of the said J. A. it is sufficiently attested in the said court of our said lord the king before the king himself that the said J. P. lurks and wanders up and down in the county of Gloucester; and the said J. A. prays the writ of our said lord the king of *testatum capias ad satisfaciendum* to be directed to the sheriff of Gloucestershire, commanding him in form aforesaid, and it is granted to him, returnable before our said lord the king at Westminster on [redacted] next after the same day is given to the said J. A. at the same place.

As the first *test ca. fi* into Gloucester- better not to take notice of the former  
shire was of course returnable the same writ.  
lay as the *ca. fi* into Middlesex, it is

Entry of *fi*  
*facias* the  
roll.

AFTERWARDS, that is to say, on the seventeenth day of May, in this same term, the said J. A. and R. S. come here into court by their attorney aforesaid, and pray the writ of our said lord the king of *fi. facias* to be directed to the sheriffs of London, commanding them that of the goods and chattels of the said Peter in their bailwick they cause to be made the damages aforesaid, and it is granted to them, returnable before our said lord the king on fifteen days of the Holy Trinity, wheresoever our said lord the king shall then be in England, the same day is given to the said J. and R. at the same place; at which day, before our said lord the king at Westminster, come the said J. and R. by their attorney aforesaid, and the sheriffs of London thereupon return to our said lord the king at Westminster aforesaid that the said Peter hath not any goods or chattels in their bailwick whereof they can cause to be levied the damages aforesaid, or any part thereof, whereupon on the behalf of the said J. and R. it is sufficiently attested in the said court of our said lord the king before the king himself that the said Peter hath goods and chattels sufficient in the county of Middlesex whereof the sheriff of that county can cause to be levied the damages aforesaid; and thereupon the said J. and R. pray the writ of our said lord the king of *testatum fi. facias* to be directed to the sheriff of the said county of Middlesex, commanding him, that of the goods and chattels of the said Peter in his county he cause to be made the damages aforesaid, and it is granted to them, returnable before our said lord the king in three weeks of the Holy Trinity, wheresoever our said lord the king shall then be in England; the same day is

*Test. fi. fa.* into  
Middlesex.

## ENTRIES OF PROCEEDINGS IN ERROR (a).

given to the said J. and R. at the same place; at which day, before our said lord the king at Westminster, come the said J. and R. by their attorney aforesaid, and the sheriff of Middlesex thereupon returns to our said lord the king aforesaid that he hath caused to be made of the goods and chattels of the said Peter in his bailiwick the sum of ninety-six pounds thirteen shillings and sixpence, which sum of money he has paid to the said J. and R. in part satisfaction of the damages aforesaid, and that the said Peter hath not any other or more goods and chattels in his bailiwick whereof he can cause to be made the residue of the damages aforesaid, or any part thereof.

*Drawn by Mr. TIDD.*

Enter on the roll the writ of error, return, transcript, declaration, interlocutory judgment, return of inquisition, and final judgment, to the end of transcript, as follows, viz.

Entry on the roll of the writ of error as yet of Easter Term.

Witness sir William Lee, knight.

ENGLAND, to wit. Our lord the king hath sent to sir J. W. knight, his chief justice of the bench, his writ closed in these words, to wit, George, &c. to his trusty and well beloved sir J. W. knight, his chief justice of the bench, greeting: Forasmuch as in the record and process, and also giving of judgment in a plaint which was in our court before you and your associates, our justices of the said bench, by our writ, between R. G. and M. P. of a certain trespass upon the case done to the said Richard by the said M. as it is said, manifest error hath intervened to the great damage of the said M. as by his complaint we are informed; we willing that the said error, if any, be duly amended, and full and speedy justice done to the said parties in this behalf, do command you, that if judgment be given thereupon, then that you send to us distinctly and plainly under your seal the record and process of the said plaint, with all things touching the same, and this writ, so that we may have them in eight days, &c. wherefore we shall then be in England, that inspecting the record and process aforesaid we may cause further to be done thereupon for amending the said error, as of right, and according to the law and custom of England shall be meet to be done. Witness ourself at Westminster, the

Error from C. B.  
to B. R.

The answer of sir J. W. knight, chief justice within named.— Chief justice.  
The record and process of the plaint within named, with all things touching the same, I send before the lord the king wheresoever, &c. at the day within contained in a certain record to this writ annexed, as I am within commanded

J. WILLES.

[Pleas enrolled at Westminster before sir J. W. knight, and his brethren, justices of his majesty's court of C. B. of the term of the Holy Trinity, in the eleventh year of the reign of our foreyeign lord king George the Second, by the grace, &c.]

Transcript.

(a) See Error.

OXFORD.

## ENTRIES OF PROCEEDINGS

**OXFORDSHIRE**, to wit. M. P. late of , in the said county, yeoman, was attached to answer to R. G. in a plea of trespass on the case, &c.; and whereupon [here recite the whole declaration.]

And the said M. in his own proper person comes and defends the wrong and injury when, &c. and says nothing in bar or preclusion of the aforesaid action of the said Richard whereby the said Richard remains against the said M. thereof undefended; wherefore the said Richard ought to recover against the said A. his damages by reason of the non-performance of the said several promises and undertakings; but because it is not known what damages the said R. hath sustained by reason of the non-performance of the said promises and undertakings, the sheriff is commanded that he diligently enquire, by the oath of honest and lawful men of his county, what damages the said R. hath sustained as well by reason of the non-performance of the said promises and undertakings as for his costs and charges expended about his suit in this behalf, and that he make a return to the justices here of the inquisition which he shall take thereupon from the day of, &c. under his own seal and the seals of, &c. he shall take that inquisition; at which day the said Richard cometh here by his attorney aforesaid, and the sheriff, namely, J. P. knight, now returneth here a certain inquisition taken before him at , in the county aforesaid, on Monday, &c. in the year of , by the oaths of twelve, &c. by which it is found that the said Richard hath sustained damages by reason of the non-performance of several promises and undertakings, besides his costs and charges by him about his suit in this behalf laid out, to seven pounds nine shillings, and for the said costs and charges to sixpence; therefore it is considered that the said Richard do recover against the said M. his damages aforesaid to seven pounds nine shillings and sixpence by the inquisition aforesaid in form aforesaid found, and also nine pounds and sixpence to the said Richard at his request by the court here of increase adjudged, which said damages amount in the whole to sixteen pounds ten shillings; and the said M. in mercy, &c.

Afterwards, to wit, on , in the same term, before our lord the king at Westminster, cometh the said M. P. by J. R. his attorney, and saith, that in the record and process aforesaid, and also in giving the judgment aforesaid, there is manifest error in this, for that by the record and process thereof it appears that the judgment aforesaid in the plea aforesaid is given for the said Richard against the said M. P. when according to the law of this realm the said judgment ought to have been given for the said M. P. against the said R. G. therefore in this there is manifest error; there is also error in this, for that it appears by the record aforesaid that the said R. G. appeared in the said court of the bench

## IN ERROR.

bench by B. R. his attorney, yet the said B. R. had no warrant of attorney to appear for the said R. G. against the said M. P. in the plea aforesaid of the said court of the bench filed on record; therefore in this there is manifest error; and the said M. P. prays his majesty's writ to be directed to the chief justice of his said majesty's court of the bench more fully to certify the truth thereof to his said majesty's, &c. and it is granted to him, &c.

And the said R. by W. his attorney, comes voluntarily here into court, and having heard the said errors forthwith says, that neither in the aforesaid record and proceedings, nor in the giving the judgment aforesaid, is there any error; and also prays that the court of our said lord the king now here may likewise proceed to examine as well the record and proceedings aforesaid and the judgment thereon given as the aforesaid matters above assigned and alledged for error, and that the said judgment may be affirmed in all things, &c.; but because the said court of our said lord the king before our said lord the king hath not considered of a judgment to give of and concerning the premises, a day therefore is given to the parties aforesaid before our said lord the king until five weeks, &c. wheresoever, &c. to hear their judgment of and concerning the premises, the said court of our said lord the king having not as yet considered what judgment to give thereupon, &c.; at which day come before the lord the king at Westminster the aforesaid parties by their attorney aforesaid, and because the court of our said lord the king before the king himself hath not considered yet of a judgment to give of and concerning the premises, a day is therefore given to the parties aforesaid before our said lord the king until the morrow, &c. wheresoever, &c. to hear their judgment of and concerning the premises, &c. the court of our said lord the now king before the king himself not having as yet considered what judgment to give of and concerning the premises, &c.; at which day, before the said lord the king at Westminster, the aforesaid parties come by their attorney aforesaid, upon which all and singular the premises being seen, and by the court of our said lord the king now here fully understood and diligently examined, and as well the record and process aforesaid as the judgment thereon given, as also the aforesaid causes and matters by the aforesaid W. above assigned for error being inspected, for that it appears to the said court of our said lord the king now here that neither in the record and process aforesaid, nor giving of the judgment aforesaid, is any thing erroneous or defective, and that there is no error in the record aforesaid; it is considered that the judgment aforesaid be in all things affirmed and do stand in full force and effect, the aforesaid causes and matters above assigned for error in anywise notwithstanding; and it is further considered by the court of our said lord the king now here that the aforesaid R. R. do recover against the said M. to the said R. by the said court of our said lord the king now here adjudged accord-

*Continuances,  
cur. adv. vult.*

*Judgment af-  
firmed, and cost  
occasioned by  
delay of execu-  
tion.*

## FORMS.—OF PROCEEDINGS IN

according to the form of the statute, &c. for his expences, costs, and charges which he hath sustained by occasion of delaying the execution of the said judgment by pretence of prosecuting the aforesaid writ of error, and that the aforesaid Richard have execution thereon, &c.

Between { JOHN HUMPHREYS  
and  
JOHN SIBLEY.

office of the al-  
wance of the  
rit.

I HAVE allowed a writ of error in this cause.

R. L. clerk of the errors.

In Error.

Between { J. H.  
and  
J. S.

office of put-  
ing in bail in  
error.

TAKE notice, bail is this day put in for the plaintiff in the writ of error in the above cause before Mr. Justice W. the names of which bail are W. G. of , and J. T. of, &c. *who at the same time justified themselves to be good bail.*

Yours, &c.

T. O. agent for the plaintiff in error.

Clifford's-Inn, 25th May, 1793.

able to tran-

HUMPHREYS } Unless the plaintiff in the writ of error certi-  
against } fies the record within eight days next after notice  
SIBLEY. } hereof given to the aforesaid plaintiff, or his at-  
torney, a nonsuit will be entered.

R. S. clerk of the errors.

C. for plaintiff in error. T. for defendant in error.

For the manner of suing out the writ of error, and what the party suing it out is to do in order to support

his judgment, and such other direc-  
tions as proceedings in error, see Mod.  
Ent. vol. 2, 374. 375.

Michaelmas Term, Geo. II. 1734.

CHAMPION ) ON a judgment in C. B. writ of error return-  
against ) able in B. R. the last return of this term.  
CHAMPION.

Rule to transcribe.—In the vacation a rule was served to transcribe from the clerk of the errors, for which paid four shillings. By this rule the plaintiff, whereupon money was left with the clerk of the errors to make out the transcript. Upon this the judgment roll was docketed with the prothono-

tiff in error to certify the record into K. B. in eight days, or else a *non prof.* was to be entered. The rule was served on the agent for the plaintiff in tary, and then entered and marked by the clerk of the effoins, paid him one shilling, then delivered it to the clerk of the errors to make the transcript.—

Note,

## ERROR—AND INSTRUCTIONS (a).

Note, the rule may be left with the prothonotary, he will take one shilling for the clerk of the effoins, who always calls on the prothonotary for what rolls are left with him.

The transcript examined and furnished.—Attend the prothonotary, have it examined and signed, and pay the clerk two shillings and sixpence, which he expects for expediting the transcript, though he cannot claim it; and when examined, leave it with him to be filed with the signer of the writs in the K. B. office.

Hilary Term following.

The transcript filed with the signer of the writs, receive it from him to copy, and pay him fourpence for delivering it; and when copied, return it to him for the defendant to copy.

Then return the original (as below), and file it with the *custos brevium* of the C. B. and execute the warrant of attorney at the warrant of attorney's office. See that they were filed agreeably to judgment.

Pledges to prosecute, { John Doe  
and  
Richard Roe.

The within named defendant hath nothing in my bailiwick whereby he can be *attached*. (If in debt, *summoned*.) The  
scire f  
The answer of J. C. esquire, sheriff.

*Scire facias* (*quare executionem non*) ought to be sued out by the sheriff or plaintiff in error, and a rule given on it; but it was agreed to sign errors with out it. (See *infra* what to do on the return of this writ.)

Vacation following.

The plaintiff's attorney gives a copy of the common errors, and it ought to be delivered to the defendant's attorney, and not left in the office.

Easter Term following.

Give a rule with the master, and enter it with for plaintiff to return a *certiorari* in four days, which serve on plaintiff's attorney, and not returning any, deliver to him *in nullo est erratum*, and pay him two shillings and fourpence for the entry of it.

As soon as *in nullo est erratum* is delivered, enter the whole proceedings with the award of a *certiorari*, and a *non misit breve* with , though no *certiorari* was sued out, and pay him as in other cases for common entries, and then move the court for a *confilium*, and pay the clerk of the papers one shilling for reading the record in court. This entry and motion may be made only with making a short inscription on the roll.

*Confilium*.—Draw up the record for counsel, and set down the cause in the paper, for which pay one shilling to the clerk of the papers, and make four books for the judges, and another for the counsel to argue it. The plaintiff makes up two books, and delivers them to the senior judges, and pays two shillings a piece with them.

Michaelmas Term, 9. Geo. III.

G. WIDOW, { ON a judgment in C. B. in dower under  
against { *nihil habet*. Writ of error returnable in  
G. AND OTHERS. { B. R. the last return of this term.

In the vacation have a rule to transcribe, &c. (as before), which being done, and examined as before.

Hilary Term following.

Receive the transcript, copied and returned (as above), get the writ of

(a) These Notes and Instructions for Proceedings in Error, communicated by one of the most experienced Practitioners in the Profession, are inserted here without alteration.

dower.

## ENTRIES, &c. OF PROCEEDINGS

dower (as the original, to warrant the judgment, that being the proper original in dower) returned with the defendant summoned, and file it.

On a *seire facias* (*quare exécutionem non*) tested the first and returnable the last return of the term, the sheriff makes out a return to the bailiff, who summons the plaintiff in error by delivering to each of them a copy of the writ, and the sheriff returns a summons on the writ.

The day after the return of the writ, give a rule for judgment on it with (as on the *seire facias*), and

the plaintiff in error, if he does not deliver you any errors, or file a plea in four days afterwards. When the rule is out, enter up the errors adjudged with , and then sue out execution for the value and damages.

### Hilary Vacation.

Having entered up the judgment on the *seire facias*, and sued out the execution on it, namely, after signing the judgment, give a rule to assign errors on record, in order to proceed to recover the costs in error, for which purpose get the following rule from the master :

### Hilary Term, 9. Geo. III.

<p><b>Rule to assign errors.</b></p> <p style="text-align: center;">G. WIDOW, against G. AND OTHERS.</p>	}	<p>Fourteen days next after the end of the term to assign errors upon the record obtained let a <i>non prof.</i> be entered.</p>
--	---	--

This rule was not given till nine days after the term, and was entered with the clerk of the rules, and served a copy on the adverse attorney, who before the rule was out delivered a copy of the common errors in the want of an original. The errors not being delivered till after fourteen days from the end of the term, a rule could not be given to return *certiorari* this vacation.

### Easter Term, 1736.

Get a rule from the master to return the *certiorari* entered and served as before, a bill in chancery being filed, and an injunction obtained, proceed no farther till

### Hilary Term, 26.

Having first moved the chancellor got an order for leave to proceed to *non prof.* writ of error, or affirm judgment, notwithstanding the injunction (which is a motion of course), and no *certiorari* being returned, and left with . I then delivered *in nullo est erratum* to the adverse attorney, and paid him two shillings and fourpence for the entry of it. This being done, I immediately entered the whole proceedings with with

an award of a *certiorari* and a *non misit breve* (though no *certiorari* was sued out), and paid him as for common entries, and I made the entry as of Easter Term last, which was the more proper than this term, in regard only that the rule to return the *certiorari* was of that term, having entered two or three lines only on the roll. I then moved the court of K. B. and got it made a *confilium*, and paid the clerk of the papers one shilling for reading the record in court. I then drew up the rule, and sent down the cause as before, and made four books, and delivered one to each judge, the plaintiff in error not delivering any; and the cause coming on, the judgment was affirmed, and I drew up the rule for the affirmance with the clerk of the rules. I then entered up the affirmance, and filed the rolls, but the rolls not being filed till Trinity Term following, I got the master to go into the Treasury at Westminster, who taxed the costs in the margin of the roll, and also on the rule for judgment (taxable sixpenny stamp). I paid fourpence for the post term, and one shilling to his clerk for filing the roll; and to the master three shillings for taxing the costs.

Easter Term, 1737.

C. }  
against } IN dower under *nihil habet*:  
C.

This was a judgment on an issue to the bishop on the defendant's plea, that plaintiff and her deceased husband were never married, and the bishop certifying the marriage to a *writ de maritagio inquirendo*, the writ of error was returnable the last return of this term, so that the defendant had by the course of the court till the end of next Trinity Term to transcribe. But had the writ of error been returnable sooner in the term, it would have been otherwise; and there being in this case a dispute whether the defendant the plaintiff in error should not put in special bail, and not take out a rule to transcribe till that could be determined, which we agreed to refer to Mr. J. Forrester, who in Trinity Term was attended on a supposed summons for plaintiff to shew cause why execution should not be stayed, a writ of error being sealed, and

the act of parliament directing that in dower after verdict special bail should be given for three years value. It was insisted for plaintiff, that the bishop's certificate being founded on an issue to him, and a *writ de maritagio inquirendo* thereon, and he having by his return to that writ found the marriage that was properly a verdict in this cause equal to the finding of a jury, as the trial of a marriage was only cognizable by the bishop; but the other side insisted that the act of parliament by the word verdict meant a finding of twelve men; and the judge was of that opinion; and that the defendant was not obliged to put in special bail.

I then took out a rule to transcribe; but before the transcript came in the defendant died, by which the writ of error abated.

Easter Term, 23. Geo. III.

W. WIDOW. }  
against } On a judgment in C. P.  
BONE AND OTHERS. }

Writ of error was returned in B. R. the last return of this term. I left a *præ pe* with the curfitor of the county of Devon, and got a writ of error sealed, and then allowed. Then served defendant in error's agent with a copy, and served the allowance. On the eleventh I put two persons in as bail for plaintiff in error before Judge Buller, and gave defendant's agent notice (the four days to put in bail being both inclusive.) The twelfth I was served with a rule for better bail, and the same evening gave the attorney notice to justify in court of C. B. on the fifteenth instant. As soon as Trinity Term came, the defendant in error got an order in chancery to proceed to affirm the judgment in error, and served me with a rule to certify the record in eight days, whereupon I left some money in order to transcribe, and afterwards paid the whole transcript money. In Trinity Term

defendant sued out two *sci. fa.* to assign errors, and had then returned *nihil*, and afterwards served me with an eight days rule in Michaelmas Term to assign errors on record.

INSTRUCTIONS.—When you are served with an allowance of a writ of error, you get a rule from the clerk of the errors (in case bail is required) to put in better bail, and serve copy on the attorney for the plaintiff in error; and when the bail have justified, you have another rule from the clerk of the errors for plaintiff in error to transcribe the record in eight days. You pay four shillings for each rule.

NOTE.—That you may meet with as little delay as possible, enter up your final judgment on the roll, and docket it, and carry it to the clerk of the errors to be by him transcribed, and he will file it with the clerk of the errors.

## ENTRIES, &amp;c. IN ERROR.

effoins; and when the record is transcribed, and you have examined the transcript carefully, the clerk of the errors files it with the writ of error and the chief justice's return annexed with in the K. B. office, and then, and not before, you make out a writ of *scire facias quare executionem non, &c.* which is signed by M. H. pay one shilling and eightpence, and the plaintiff in error must either be summoned in this writ by the sheriff or an *alias* must issue. This writ must lie four days in the sheriff's office before the return; and in case of an *alias scire facias*, each must be four days there before the return, and there must be fifteen between the *teste* and return of the *scire facias*, with notice, or in case of an *alias scire facias*, then fifteen days between the *teste* of the first *scire facias* and the return of *alias scire facias*. On the return of the first *scire facias* with notice, or in case of two *alias scire facias*, a rule is given with the clerk of the rules for the plaintiff in error to appear and assign errors; but no formal appeal is entered, for in fact the appeal is by signing error; and if errors are not assigned, you may sign *non prof.* for want thereof; but then you have no costs. Many times the plaintiff's agent in error gives the defendant's agent a notice that he will appear for plaintiff, and then a rule is given by the master on part of the proceedings, and entered with the clerk of the rules to assign errors. If

the plaintiff assigns, and alleges the want of an original, or warrant of attorney, you get a rule from the master to return the writ or writs of *certiorari*, which being entered with the clerk of the errors, you serve it on the plaintiff's attorney to return the same; and if you find none returned and filed with when the rule is out you return in *nullo, &c.* and pay there-with two shillings and fourpence for the entry; and if the writ is brought merely for delay, you make an entry of the proceedings on a treble penny stamp, and also on the roll, and enter the same with on producing the roll marked for a *confilium*; which you draw up, and set down the cause with the clerk of the papers, and enter your proceedings on the roll, and make up the paper books for the judges. The defendant in error delivers to the two *per se* judges four days before day of argument, and if more delivered by the plaintiff to the senior judges, you also deliver them a copy two days before the day for which the cause is set down to be argued. N. B. If you deliver all the books, the other side cannot be heard by counsel. When the court has given judgment, draw up the rule, and get it stamped with double two shilling and sixpenny stamps, and carry it and your roll to the Master, and he signs the affirmance and taxes the costs by the delay of execution.

LITCHFIELD *against* SMITH.

The plaintiff in error having assigned several frivolous special errors merely for delay, I therefore stayed till the end of the vacation, and then served the plaintiff with a four day rule to return the *certiorari*, which he had prayed for in the assignment of errors.

The *certiorari* not being returned within the time, I made an entry that the chief justice had not returned the writ, &c. And I filed a general re-

plication of *nullo, &c.* By this means the plaintiff was prevented from arguing the special errors aforesaid, and the judgment was affirmed of course.

The plaintiff took out a summons for time to return the *certiorari*, but Baron Perrot refused to allow a moment's time. The plaintiff upon the affirmance day moved that it might stand over, but this the court also denied.

## In the Exchequer Chamber.

of BURTON } AFTERWARDS, to wit, on Wednesday next  
against } the day of , in the twelfth year, &c. before  
OWSON. } the said justices of the C. B. and the barons of the ex-  
chequer

# FORMS.—WRITS—DIRECTIONS OF.

chequer chamber, comes the said G. B. by J. A. his attorney, and says, that in the record and proceedings aforesaid; and also in giving the judgment aforesaid, there is manifest error in this, to wit, that the declaration aforesaid in the said record mentioned, and upon which the said judgment is given in form aforesaid, and the matters therein contained, are not sufficient in law for the said W. O. to maintain his aforesaid action against the said G. B. therefore in that there is manifest error; there is also error in this, to wit, that by the record aforesaid here sent it appears that the judgment aforesaid in form aforesaid given was given for the said W. O. against the said G. B. whereas by the law of the land that judgment ought to have been given for the said G. against the said W. therefore in that case there is manifest error; and the said G. prays that the judgment aforesaid for the errors aforesaid, and other errors being and appearing in the said record and process, may be reversed, annulled, and held utterly for nothing, and that the said William may rejoice to these errors.

THO. WALKER.

And hereupon the said in their proper persons voluntarily come joinder in error before into court, and having heard the errors aforesaid forth- from C. P. to with, say, that neither in the record and proceedings aforesaid, nor K. B. in giving the judgment aforesaid, is there any error; and pray that the court of our lord the king now here would proceed to the examination as well of the record and proceedings aforesaid, as of the matters above assigned for, and that the judgment aforesaid may be affirmed; but because the court of our said lord the king now here is not yet advised what judgment to give of and concerning the premises a day is therefore given to the parties aforesaid to come before the said lord the king on , wheresoever, &c. to hear the judgment aforesaid; for that the court of the said lord the king now here is not yet advised, therefore, &c.

TO the chancellor of our county palatine of Lancaster or to his deputy. Direction of latitat to the county palatine of Lancaster.

To the chamberlain of our county palatine of Chester, or to his deputy. To Chester.

To the right reverend father in God, R. lord bishop of Durham, or to his deputy there, greeting: Whereas, [as in other latitats till] run up and down and secrete themselves in your bishoprick; therefore we command you that by our writ under the seal of your bishoprick duly to be made out and to be directed to the sheriff of Durham aforesaid, you cause the said sheriff to be commanded, &c. To Durham.

To the mayor and bailiffs of our borough of Berwick-upon-Tweed. for Berw upon Tweed

## FORMS.—AC ETIAMS.—IN WRITS.

### AC ETIAMS.

*In latitat in debt.* AND also to a bill of the said A. against the said B. for pounds debt, according to the custom of our court before us to be exhibited.

To be double the sum sworn to.

*To a bill of Middlesex in debt, with two defendants severally.* And also to a bill of the said A. against the said B. and C. severally for pounds debt, according to the custom of our court of the lord the king, before the king himself to be exhibited.

*In case.* And also to a bill of the said A. against the said B. for pounds, upon promises, according. [*Vide* difference between *latitat* and bill, as above.]

*To a latitat against two defendants one for debt and the other on promises.* And also to several bills of the said A. against the said B. and C. severally, to wit, against the said B. for pounds debt, and against the said C. upon promises, according, &c.

*Against four defendants, two in debt and two in promises.* And also to several bills of the said A. against the said B. C. D. and E. to wit, against the said B. and C. severally for a debt of pounds, and against the said D. and E. for pounds, upon promises, according, &c.

*In detinue.* And also to a bill of the said M. against the said N. for detaining the goods and chattels of the said M. to the value of pounds, according, &c.

*In trover.* And also to a bill of the said P. against the said Q. for converting and disposing of the goods and chattels of the said P. to the value of pounds, according, &c.

*For breach of covenant.* And also, &c. for breach of certain covenants made by the said T. to the said U. to the damage of the said U. of pounds, according, &c.

*In assault, by a judge's order.* And also, &c. for a certain trespass and assault committed by the said N. on the said O. to the damage of the said O. of pounds, according, &c.

Indorse it thus:

Take bail for pounds, by order of lord Kenyon.

## BEGINNINGS AND CONCLUSIONS TO DECLARATIONS, &c. IN INFERIOR AND SUPERIOR COURTS.

*Beginning of a declaration in B.R.* MIDDLESEX, to wit. A. B. complains of C. D. being in the custody of the marshal of the Marshalsea of our lord the king, before the king himself, in a plea of trespass on the case [as the

the case is]; for that whereas, &c. [Go on with the declaratory part].

To the damage of the said A. B. of pounds, for which he brings his suit, &c. Conclusion to a declaration in B. R. by bill.

(a) Pledges to prosecute } John Doe  
and  
Richard Roe.

(a) Pledges are put to declarations in B. R. and in the exchequer (and in the common pleas where proceedings are for or against privileged persons), because originally, by the common law, no person was entitled to bring an action till he had first found pledges to prosecute such writ; and then those pledges to prosecute were not *fictitious* but *real* persons. Wisdom and experience have found it necessary to excuse finding these real pledges, but as the law is still the same, the fictitious names of John Doe and Richard Roe are used instead of real pledges formerly found. Therefore a proceeding in the king's bench or exchequer, as also in the common pleas

when for or against privileged persons, being brought by bill (and not by original), which is supposed to be the commencement of a suit, the pledges are first shewn on the bill, and consequently on the declaration as being an exact copy of the bill. In proceedings by original the pledges are omitted in the declaration, because the original is the first process and is sued out of the court of chancery, where pledges are supposed to be found before the original is sued out; and the original mentions, that because the plaintiff hath found pledges to prosecute his suit, therefore the sheriff commanded. &c.

MIDDLESEX, to wit. C. D. late of *Westminster in the county of Middlesex, yeoman*, (b) was attached [or summoned] to answer unto A. B. in a plea of trespass on the case [as the case is]; and thereupon the said A. B. by X. Y. his attorney, complains, that whereas, &c. [Go on with the declaratory part.] Beginning of a declaration in C. B. by original.

(b) In the common pleas you must always put the defendant's addition, that is, by place of abode, his degree, profession, or trade. For the reason, see *Deffine Placitandi*, ed. 1771, in English, fo 65.

Wherefore the said A. B. saith he is injured, and hath sustained damage to the amount of pounds, for which he brings his suit, &c. [Omit pledges.] Conclusion to a declaration in C. B. by original.

MIDDLESEX, to wit. A. B. a debtor of our sovereign lord the now king cometh before the barons of the exchequer on the day of In this same term, by C. D. his attorney, and complains by bill against E. F. present here in court the same day, in a plea of trespass on the case, &c.; for that whereas, &c. [Go on with the declaratory part.] Beginning of a declaration in the exchequer of pleas, by bill in assumpsit.

To the damage of the said A. B. of pounds, whereby he is the less able to satisfy our said lord the now king the debts which he B b 2 Conclusion to a declaration in the exchequer of pleas, by bill in assumpsit.

## FORMS.—PRÆCIPES—AND BEGINNINGS—

he owes to his majesty's exchequer; and therefore he brings his  
suit, &c. [Add pledges.] (a)

(a) The reason of this form is because the court of exchequer is supposed to be a court only in aid of the king's debtors, and all proceedings there conclude in the same manner.

beginning of a *scire facit*, or rather *fi se fecerit scire facit* or a *pone*,  
case in B. R. MIDDLESEX, to wit. If A. B. make you secure, &c. [to prosecute his suit] then put, &c. [by safe and sure pledges] C. D. late of , that he be before our lord the king, on , [a general return day] wheresoever, &c. [our said lord the king shall then be in England] to shew; for that whereas, &c. [Go on with the declaratory part.]

conclusion to *scire facit*. [Conclusion same as to declaration in B. R., only instead of the words "for which he brings his suit," say, "*as it is said.*"]

[Omit pledges, which are not supposed to be yet found. You must omit all *profferts in curia*, the cause not being yet in court.]

beginning of a declaration in the borough court, or a case. BOROUGH COURT OF SOUTHWARK, to wit. A. B. by C. D. his attorney, complains of C. A. in a plea of trespass on the case; for that whereas the said C. A. on the day of , in the year of Our Lord , to wit, at Southwark in the county of Surry, and within the jurisdiction of this court (b), &c. [Every thing subsequent as in B. R. Add pledges.]

(b) You must be careful to lay the conclusion as well as the *assumpsit* within the jurisdiction. *Vide* 4. Bac. Abr. 83.

beginning of a declaration in the borough court, or a case. PALACE COURT, to wit. A. B. by X. Y. his attorney, complains of C. D. of a plea of trespass on the case, &c.; for that whereas the said C. D. on, &c. at in the county of , and within the jurisdiction of this court (c), &c. [Every thing subsequent as in B. R. only adding after suit the following averment, "and the said A. B. doth aver that, &c. neither he nor the said C. D. were, nor was either of them, at the time of the levying of the plaint of the said A. B. here in court, nor are they, nor is either of them now of the king's household.]"

(c) You must also be careful here to *fit* within the jurisdiction. *Vide* 4. Bac. Abr. 33.  
lay the consideration as well as the *assump-*

a *præcipe* in covenant. MIDDLESEX, to wit. Command C. D. late of, &c. that justly and without delay he keep with A. B. the covenant made between them the said A. B. and C. D. according to the force, form, and effect of a certain indenture, [or a certain deed-poll, or certain articles of agreement,] thereof made between them, &c. as it is said, &c. unless, &c.

## AND CONCLUSIONS TO DECLARATIONS.

MIDDLESEX, Command C. D. late of, &c. that justly and *Præcipe in debt.*  
without delay he render unto A. B. pounds, of good and law- *3 Bl. Com. 274.*  
ful money of Great Britain, which he the said C. D. owes to (a)  
and unjustly detains from him, as it is said; and unless, &c.

(a) In actions of debt by or against ex-  
ecutors or administrators, you omit the  
words in Italic, there being no debt im-  
mediately between the parties.

In covenant and debt, both in B. R.  
and C. B. where you sue by original, the  
*præcipe* is no more than as above, varying

from originals in case; because in the for-  
mer the demands are certain, in the latter  
arising on their own particular circum-  
stances. *Vide Proceedings at large in*  
*Debt, 3. Bl. Com. App. 13. No. 3. and*  
*the difference between a præcipe and si se*  
*f. cerit securum, ibid 274.*

——, to wit. Writ of *justicies*, directed to the sheriff of *Præcipe for writ*  
the county of , to hold plea in the county court for A. B. of *justicies* is  
against C. D. in a plea of *trespass on the case*, &c.; for that whereas, *case.*  
&c. [The conclusion to this *præcipe* is like that to the *præcipe*  
in B. R. in case, above.]

MIDDLESEX, to wit. A. B. gentleman, one of the attor- *Beginning of de*  
nies of the court of our sovereign lord the now king, before the *claration at su*  
king himself present here in court in his own person, according to *of an attorney*  
the liberties and privileges of the said court for such ministers and *the king's bench*  
other officers of the said court, from time immemorial used and ap-  
proved of, complains of C. D. being, &c. [Every thing subse-  
quent as in other declarations in B. R. Add pledges, &c.]

As to proceedings by and against attorneys. *Vide 2. Comp. Prac. 116.*

MIDDLESEX, to wit. A. B. complains of C. D. gentleman, *Beginning of*  
one of the attorneys of the court of our lord the now king, before *bill against a*  
the king himself present here in court in his own person of a plea, *attorney of th*  
&c.; for that whereas, &c. [as before only at the end instead of *king's bench.*  
saying, “for which he brings his suit, &c.” say, “for which he  
*prays relief*, &c. Add pledges, &c.]

MIDDLESEX, to wit. C. D. late of, &c. was attached by *Beginning of*  
his majesty's writ of privilege issuing out of the court here, to an- *declaration.*  
swer unto A. B. gentleman, one of the attorneys of his majesty's *suit of an attor*  
court of the bench here, according to the liberties and privileges *ney in C. P.*  
of the said court for such attorneys and other ministers of the said  
court, from time immemorial used and approved of, in a plea of,  
&c.; and thereupon the said A. B. in his own proper person com-  
plains, that whereas, &c. [Add pledges.]

## FORMS.—DECLARATIONS—

To the justices of our lord the king of the bench:

Beginning of a  
bill against an  
attorney of com-  
mon pleas.

**MIDDLESEX**, to wit. A. B. by X. Y. his attorney, com-  
plains of C. D. gentleman, one of the attornies of his majesty's  
court of the bench, present here in court in his own proper person,  
of a plea, &c.; for that whereas, &c. [At the end say, "for  
which he prays relief, &c." Add pledges.]

Beginning of a  
declaration on a  
bill against an  
attorney of C. P.

**MIDDLESEX**. Be it remembered, that on next after  
in this same term comes into court here A. B. by his attorney, and  
brings here into his majesty's court his bill against C. D. one of  
the attornies of his majesty's court of the bench, present here in  
court in his own proper person, in a plea of, &c.; and there are  
pledges for the prosecution, to wit, John Doe and Richard Roe;  
the tenor of which said bill follows in these words, to wit: To the  
justices of our lord the king of the bench, Middlesex, to wit:  
A. B. by his attorney complains, &c. [To the end of the bill  
preceding, omitting the pledges.]

Beginning of a  
bill in the petty  
bag office, at  
suing one of the  
clerks.

**MIDDLESEX**, to wit. A. B. by X. Y. his attorney, com-  
plains of C. D. gentleman, one of the clerks of E. F. esquire, he  
the said E. F. being one of the six clerks of the high court of chan-  
cery of our lord the now king, before the king present here in  
court in his own proper person of a plea of, &c. [Every thing  
subsequent as in B. R. Add pledges.]

Beginning of a  
declaration at  
suit of assignee  
of a bankrupt.

**MIDDLESEX**, to wit. A. B. and C. D. assignees of the  
estate and effects of E. F. a bankrupt, within the true intent and  
meaning of the several statutes made and now in force concerning  
bankrupts (*a*), *some or one of them* complain of G. H. being in the  
custody, &c.

(*a*) This is in general the language of  
the declaration of the bankruptcy, and  
it may therefore be as well to adopt it in  
all future proceedings under or relative to  
a commission.

Coke's Bankrupt Laws, 306. Cowp.  
596. Richardson's B. R. 153.

Beginning of a  
declaration at  
suit of assignee  
of an insolvent  
debtor, in B. R.

**MIDDLESEX**, to wit. A. B. assignees of the debts, goods,  
and effects of C. D. late of, &c. heretofore an insolvent prisoner,  
and duly discharged from his imprisonment in pursuance of a cer-  
tain act of parliament made at Westminster in the county of Mid-  
dlesex, in the year of the reign of our sovereign lord the now  
king, entitled, An Act, &c. [set forth the title of the act *verba-  
tim*], complains of E. F. being, &c. [Add pledges, &c.]

Beginning of a  
declaration at  
suit of assignee  
of a bankrupt  
in a bill, in

**MIDDLESEX**, to wit. A. B. assignee of E. F. esquire,  
sheriff of the county of , according to the form of the statute  
in such case made and provided, complains of C. D. being in the  
custody,

custody, &c. of a plea that he render unto the said A. B. assignee as aforesaid, pounds, of lawful money of Great Britain, which he the said C. D. owes to and unjustly detains from him the said A. B. &c.; for that whereas, &c. Pledges, &c.

[These three last forms are in B. R. but may be easily applied to C. P. by saying C. D. late of, &c. was *attached* (or if in debt or covenant, *summoned*) to answer unto A. B. assignee, &c. (stating the addition as in B. R.) in a plea of, &c.; and whereupon, &c.]

MIDDLESEX, to wit: A. B. complains of C. D. being in the custody, &c. of a plea of breach of covenant; for that whereas by a certain indenture, [*or deed-poll, or articles of agreement*] bearing date, &c. between, &c. &c. (one part of which said indenture sealed with the seal of C. D. the said A. B. brings here into court, the date whereof is the day and year aforesaid), &c. &c.

Beginning of a declaration in covenant, in king's bench, by bill.

And so the said A. B. saith that he the said C. D. (although often requested by him the said A. B.) hath not yet kept his said covenant so by him made with the said A. B. in this behalf as aforesaid, but hath broken the same, and to keep the same with the said A. B. hath hitherto wholly refused, and still refuses so to do. Damages, &c. Pledges, &c.

Conclusion of declaration in covenant, by bill.

MIDDLESEX, to wit. C. D. late of, &c. (a) was *summoned* to answer unto X. Y. in a plea that he keep with him the covenant made between the said X. Y. and the said C. D. according to the force, form, and effect of a certain indenture, [*or deed-poll, or articles of agreement*] made between them the said X. Y. and C. D.; and thereupon, &c.

Beginning of declaration in covenant, in common pleas by original.

[At the end, after bring suit, &c. you must make a *proferit in curia* of the indenture, &c. (b) ]; and he also brings into court here the said indenture, sealed with the seal of the said C. D. and the date whereof is the day and year aforesaid.

Conclusion

(a) In the common pleas all *proferit in curia* are made at the end of the declaration, otherwise in B. K.

(b) the common pleas the process in covenant is by summons.

MIDDLESEX, to wit. N. B. complains of X. Y. being in the custody, &c. in a plea that he render unto him the said N. B. pounds of lawful money of Great Britain, which he owes to and unjustly detains from him, &c.; for that whereas, &c.

Beginning of declaration in debt in B. R. by bill.

Yet the said X. Y. (although often requested by the said N. B.) hath not as yet rendered the said sum of pounds above demanded, or any part thereof, to the said N. B. but he to render the same,

Conclusion ditto.

## FORMS.—DECLARATIONS.—

or any part thereof, to the said N. B. hath hitherto wholly refused and still refuses so to do. Damages, &c. Pledges, &c.

In actions of debt by or against executors or administrators you omit the words in *Italic*, as there is no debt immediately between the parties.

In actions of debt the damages are nominal.

beginning of a declaration in debt in common pleas, by original. MIDDLESEX, to wit. P. X. late of, &c. was (*a*) *summoned* to answer unto O. B. in a plea that he render unto the said O. B. pounds, which he *owes to* and unjustly detains from him; and thereupon, &c. [Similar conclusion as in B. R. only omitting pledges]

(*a*) In the common pleas the process in debt is by summons.

beginning of a declaration *qui regni* in king's bench, by original. MIDDLESEX, to wit. V. X. who sues as well *for our sovereign lord the king* [or *for the poor of the parish of* ], as for himself in this behalf, complains of M. N. being in the custody, &c. of a plea that he render to *our said sovereign lord the king*, [or *to the poor of the said parish*], and to him the said V. X. who sues as aforesaid, pounds of lawful money of Great Britain, which he owes to and unjustly detains from them, &c.; for that where-as, &c.

conclusion to *into*. Yet the said M. N. (although often requested, &c.) hath not yet rendered the said sum of pounds above demanded, or any part thereof, to *our said lord the king*, [or *the poor of the said parish*], and to the said V. X. who sues as aforesaid, or to either of them; but he to render the same, or any part thereof, to *our said sovereign lord the king* [or *the poor of the said parish*] and the said V. X. who sues as aforesaid, or to either of them, hath hitherto wholly refused, and still doth refuse so to do, to the damage of the said V. X. who sues as aforesaid of pounds, and therefore, as well for *our said lord the king* [or *the poor of the parish*] as for himself in this behalf, he brings his suit. P'edges &c.

beginning of a declaration *qui* in common pleas, by original. MIDDLESEX, to wit. K. M. late of, &c. was *summoned* to answer unto L. X. who sues as well, &c. [as in the last precedent], in a plea that he render, &c.; and thereupon the said L. X. who sues as aforesaid, by G. O. his attorney, complains that, &c. [Conclusion as in B. R. omitting pledges.]

In *qui tam* actions the *venue* must be laid in the proper county.

beginning of a declaration in trespass in B. R. by bill. MIDDLESEX, to wit. A. B. complains of N. O. being in the custody, &c.; (*a*) for that the said N. O. heretofore on, &c.

(*a*) The trespass must be positively alleged, and not with a *veritas*, which would be bad upon a demurrer, the trespass being alleged by way of recital.

## BEGINNINGS AND CONCLUSIONS.

*with force and arms, &c. at &c. made an assault, &c. and other wrongs to the said A. B. then and there did (a) against the peace of our lord the now king, &c. and to the damage of the said A. B. of pounds, for which he brings suit, &c. Pledges, &c.*

(a) This a necessary allegation in trespass.

Trespass *quare clausum fregit* is a local action.

MIDDLESEX, to wit. N. O. late of, &c. was *attached* to answer unto A. B. in a plea wherefore with force and arms *he made an assault, (or broke and entered, &c.)* [reciting the facts complained of, with an omission of the circumstances of time, quantity, sums, &c. after which you state the *alia enormia* thus, "and other wrongs to the said A. B. there did against the peace of our said lord the king, and to the great damage of the said A. B.; and thereupon the said A. B. by his attorney, complains, that, &c." [repeating the facts complained of, and also the *alia enormia*, with the circumstances of time, quantity, and sums.]

[IN replevin the action being *commenced*, or at least removed by original writ, and being in its nature an action of trespass the form of the declaration therein is the same as the last precedent, whether in B. R. or in common pleas, with this only difference, that in replevin you state the defendant to have been (a) *summoned* to answer, and not attached as in trespass.]

(a) *Qy.*—See Gilbert's Law of Distress and Replevin, 76.

MIDDLESEX, to wit. A. B. executor of the last will and testament of G. H. deceased, complains of O. P. being in the custody of the marshal, &c.; for that whereas the said O. P. heretofore, in the lifetime of the said G. H. to wit, on, &c. was indebted to the said G. H. in pounds of lawful, &c. for, &c.; and being so indebted he the said O. P. in consideration thereof, afterwards, in the lifetime of the said G. H. to wit, on, &c. aforesaid, at, &c. aforesaid, undertook, &c. promised the said G. H. to pay him, &c.

Yet the said O. P. not regarding, &c. but contriving, &c. to deceive and defraud the said G. H. in his lifetime, and the said A. B. as such executor as aforesaid since his decease, hath not as yet paid, &c. either to the said G. H. in his lifetime, or to the said A. B. as such executor as aforesaid, since his decease, (although to pay the same he the said O. P. was requested as well by the said G. H. in his lifetime, to wit, on, &c. aforesaid, as by the said A. B. as such executor, as aforesaid, since his death, to wit, on, &c. at, &c. aforesaid; but he so to do hath hitherto wholly refused, and

## FORMS.—DECLARATION.—BEGINNINGS OF AND

and still refuses to pay the same, or any part thereof, to the said A. B. as such executor as aforesaid, to the damage of the said A. B. as such executor as aforesaid, of      pounds, for which he brings his suit, &c.; and he also brings into court here the letters testamentary of the said G. H. whereby it fully appears to the said court here that the said A. B. is executor of the last will and testament of the said G. H. and hath administration thereof, &c. [Add pledges, &c.]

*Vide* 3. Wilson, 1. where plaintiff declaring as indorsee of the administrator of A. B. of a note payable to him or order, need not make a profert of the letters of administration, and the reason.

MIDDLESEX, to wit. N. V. late of, &c. was attached to answer unto A. B. executor of the last will and testament of G. H. deceased, in a plea of, &c.; and thereupon the said A. B. as such executor as aforesaid, by X. Y. his attorney, complains, &c.

[Conclusion same as in B. R. adding a similar *profert* of letters testamentary, omitting pledges, &c.]

MIDDLESEX, to wit. A. B. complains of O. P. executor of the last will and testament of G. H. (a) deceased, being in the custody, &c. in a plea, &c.; for that whereas the said G. H. in his lifetime was indebted, &c. &c.; and being so indebted he the said G. H. afterwards, in his lifetime, &c. undertook, &c.

(a) That this is the proper form though defendant be executor in his own wrong, *vide* Coulter's case, 5. Co. 50. b. 31. a. Yelv. 137. 1. Brownl. 103. Godolphin, 91. 93. Salk. 28.

Yet the said G. H. in his lifetime, and the said O. P. as such executor as aforesaid, since his death, not regarding the said several promises, &c. of the said G. H. so by him in manner and form aforesaid made, but contriving, &c. have not, nor hath either of them as yet paid, &c. to the said A. B. (although to pay the same the said G. H. in his lifetime, to wit, on, &c. at, &c. aforesaid, and the said O. P. as such executor as aforesaid, since his death, to wit, on, &c. at, &c. were respectively requested by the said A. B. but they so to do have, and each of them hath hitherto wholly refused, and the said O. P. as such executor as aforesaid, still refuses to pay the same or any part thereof, to the said A. B. to the damage of the said A. B. of      pounds, for which he brings his suit, &c.

*Vide* Godolphin, 91; a good reading on the liability of executors in their own wrong.

The forms of pleading are very different where a person is charged as executor, and when personally. In the

first case he is named executor in the beginning of the declaration, and afterwards stated to be liable as executor, and the promises alleged to have been made as executor; but in the latter case he is charged generally, Cowp. Rep. 292.

## CONCLUSIONS BY AND AGAINST EXECUTORS.

MIDDLESEX, to wit. C. D. late of, &c. executor of the last will and testament of G. H. deceased, was attached to answer unto A. B. in a plea of, &c. and thereupon the said A. B. by his attorney, complains, &c.

Beginning declaration  
assumpsit  
gainst an  
executor, in  
by original

[Conclusion same as in R. B. only omitting pledges, &c.]

Conclusion  
ditto.

MIDDLESEX, to wit. A. B. administrator of all and singular the goods and chattels, rights and credits, which were of G. H. deceased, at the time of his death, who died intestate, complains of V. W. being, &c. ; for that whereas the said V. W. heretofore, in the lifetime of the said G. H. to wit, on, &c. at, &c. was indebted, he the said V. W. in consideration thereof, afterwards, in the lifetime of the said G. H. to wit, on, &c. at, &c. aforesaid, undertook and faithfully promised the said G. H. to pay him, &c.

Beginning declaration  
assumpsit, as  
of an admin-  
istrator, in  
by bill.

Yet the said G. H. not regarding, &c. but contriving, &c. to deceive and defraud the said G. H. in his lifetime, and the said A. B. as such administrator as aforesaid, since the death of the said G. H. (to which said A. B. administrator of all and singular the goods and chattels, rights and credits, which were of the said G. H. at the time of his decease, was by , by divine providence archbishop of Canterbury, primate of all England, and metropolitan, on the day of , in the year of Our Lord [the date of the letters of administration], (a) at, &c. aforesaid, in due form of law committed) hath not as yet paid, &c. either to the said G. H. in his lifetime or to the said A. B. administrator as aforesaid, since his decease, (although so to do he the said V. W. was requested by the said G. H. in his lifetime, to wit, on the said day of , in the year aforesaid, and by the said A. B. as such administrator as aforesaid, since the death of the said G. H. to wit, on, &c. and often afterwards, to wit, at, &c. aforesaid; but he so to do hath hitherto wholly refused, and still refuses to pay the same, or any part thereof to the said A. B. administrator as aforesaid, to the said A. B. as such administrator as aforesaid his damage of pounds, for which he brings his suit, &c. ; and he also brings into court here the letters of administration of the said archbishop, which sufficiently testify to the court here the granting of the administration aforesaid to the said A. B. the date whereof is the day and year in that behalf above-mentioned. Pledges, &c.

Conclusion  
ditto.

(a) In an action of debt by an administrator he must shew where administration was committed, *aliter* of an executor; for he need not shew

where made so, because he may be executor of his own wrong. 35 H. 6. Heath's Maxims of Pleading

MIDDLESEX, to wit. V. W. late of, &c. was attached to answer unto P. Q. administrator of all and singular the goods and chattels, rights and credits, which were of K. L. deceased, at the

Beginning  
declaration  
assumpsit

## FORMS OF DECLARATIONS BY ADMINISTRATOR,

time of his death, who died intestate, in a plea of, &c.; and thereupon the said P. Q. as such administrator as aforesaid, by V. U. his attorney, complains, &c.

Conclusion.

[Conclusion same as in B. R. adding a similar profert and conclusion to ditto of the letters of administration, omitting the pledges, &c.]

Beginning of a declaration against an administrator, in B. R. or C. P.

[THE beginnings and endings of declarations against administrators are the same both in B. R. and C. P. as those against executors in the respective courts, only substituting the description, "administrator of all the singular the goods and chattels, rights and credits which were of G. H. deceased, at the time of his death, who died intestate," instead of executor of the last will and testament of G. H. deceased.

It is sufficient in B. R. to describe defendant as administrator without specially averring the administration was committed. Sed qu. in C. P. Vide 2. Vent. 84; 2. Ld. Raym. 1511; 2. Stra. 781.

For the reason, 3. Will. 1.; as to the manner and form of granting administration in all cases by the ecclesiastical court. Vide Wankford and Wankford, Salk. 299. 309.

There are several sorts of administration besides administrations of goods and chattels of the intestate, viz. administration of the goods, &c. (of a deceased person) with the will annexed, which is committed when a man makes a will without appointing an executor, or when he appoints an executor who dies before him or refuses to act. There is likewise an administration of the goods of a person deceased during the minority of another,

(a) An administrator *durante minore etate* of an administratrix may act and sue till the person in whose right he acts be

which is committed when the next of kin is not of proper age to take the probate of the will or the administration of the intestate. There are also other kinds of administration, in all which the beginning of the declaration varies according to the fact, and if the administration be granted during a limited time, or for a particular purpose, you must in the conclusion of the declaration aver that the time is not expired, or the purpose executed, for which the administration is granted. The following is the averment to be annexed to a declaration at the suit of an administrator *durante minore etate* which will give some idea of the rest, with this, that the said A. B. will verify that the said Z. Z. is still within the age of (a) seventeen years, to wit, of the age of years and no more, to wit, at, &c. aforesaid.

of the age of twenty-one years, 1. Salk. 39; and therefore in such case the averment must vary accordingly.

Beginning of a declaration at suit of an infant, B. R. by bill.

MIDDLESEX, to wit. A. B. by E. F. who is admitted by the court of our lord the king, before the king himself, here to prosecute for the said A. B. who is an infant within the age of twenty-one years, as the next friend of the said A. B. complains of C. D. being in the custody, &c. Pledges.

Beginning of a declaration at suit of an infant, C. P. by ori-

MIDDLESEX, to wit. C. D. late of, &c. was attached to answer unto A. B. in a plea of, &c. and thereupon the said A. B. by E. F. who is admitted by the court here to prosecute for the said

# AND PROCEEDINGS BY INFANTS.

said A. B. who is an infant within the age of twenty-one years, as the next friend of the said A. B. complains, &c. Omit pledges, &c.

The reason of the two last forms is friend, and the preparatory proceeding because an infant cannot make an attorney, but must sue by his next

To the right honourable lord chief justice of his majesty's court of , the humble petition of Sheweth,

That your petitioner having lately brought an action against one C. D. [This to be omitted in K. B.] late of in the county of , in a plea of trespass on the case, (as it is) and that your petitioner being an infant within the age of twenty-one years, to wit, of the age of years and no more, your petitioner therefore most humbly prays your lordship to admit him to prosecute the said action by E. F. of your petitioner's next friend; and your petitioner shall ever pray. A. B.

[Under the above petition the following agreement must be written.]

I AM desirous, and do hereby agree, that A. B. of in the county of in the petition above named, may be admitted to prosecute this action by me as his next friend, according to the above petition, and I do hereby promise and agree to pay all costs that shall or may happen for or on account thereof. Witness my hand this day of 17 . E. F.

To support the infant's petition the following affidavit must be made by some person who saw the infant sign the petition, and the agreement.

*is contained in the precedent in the King's Bench, or Common Pleas.*

P. P. of in the county of , maketh oath and faith, that on the day of , A. D. A. B. of , did subscribe his name to the petition hereunto annexed in this deponent's presence, and that on the day and year aforesaid, E. F. did subscribe his name to the consent and agreement written below the said petition hereunto annexed in the presence of this deponent. P. P.

Sworn, &c.

Upon which the judge's clerk makes an admission, and the judge signs it, and you declare in form aforesaid.

Peers, and members of the house of commons, may be proceeded against either by original or by bill; the former was the only mode of proceeding at common law; the latter came in by

12. and 13. W. 3. c. 3.; in proceeding by original the *præcipe* is the same as in other cases, with the additions only of defendant's title, or addition followed by these words in a parenthesis (*having privilege of parliament*), but the process thereon being by summonses, the declaration states, that defendant was summoned in all cases, and not in any case

The form of petition by infant to sue therein and ther in B. R. C. P.

Agreement, *prochein ami* pay costs, &

Affidavit *signing*

*the*

Of process against persons members of parliament.

Query, if not confessed by peers only. *Vide* *Tom. Hall*

## FORMS OF DECLARATIONS AGAINST PEERS, &c.—

that he was *attached* to answer. In concluding declarations against *peers*, you omit the charge of *fraud and deceit*, as the insertion of it would incur a breach of privilege. In proceeding *by bill* the forms are as below:

Irish peers, as such have no privilege, but are sued as other persons, or you stile them A. B. esquire, commonly called , in the kingdom of Ireland.

The privilege of parliament extends to all peers, whether English or Scotch, and to peeresses, whether by birth or marriage, also to members of the lower house; but Irish peers, and members of the Irish house of commons, as such, have not this privilege, nor peeresses by marriage, who afterwards intermarry with commoners.

Being of MIDDLESEX, to wit. A. B. complains of the right honourable George lord, &c. (or of C. D. esquire, having privilege of parliament); for that whereas, &c. yet the said, &c. *not regarding, &c. but contriving, &c.* [This must be omitted in a bill or declaration against a peer] hath not, &c. &c. &c. to the damage of the said A. B. of pounds, and thereupon he prays relief and his majesty's process to be made to him against said, &c. according to the form of the statute in such case made and provided; and it is granted him, &c. Pledges, &c.

In declaring on this bill you omit the prayer at the end of it, but in other respects the declaration is entirely conformable to the bill, which

never states defendant to be in the custody of the marshal. *Vide* Say. Rep. 63. 64.

To the justices of our lord the king of the bench.

Being of a MIDDLESEX, to wit. A. B. by C. D. complains of the right honourable, &c. (or G. H. esquire,) having privilege of parliament, of a plea of trespass on the case, &c.; for that whereas, &c. [Continuation to the bill in the common pleas is the same as to that in K. B. *Vide supra.*]

Hilary Term, George III.

Being on BE it remembered, that on in this same term came here into court A. B. by his attorney, and brought here into court his certain bill against the right honourable, &c. (or E. F. esq.) having privilege of parliament, in a plea of trespass, &c.; and there are pledges for the prosecution thereof, to wit, John Doe and Richard Roe, the tenor of which said bill follows in these words, that is to say, [Here copy the bill *verbatim*, omitting the pledges.]

Being to Yet the said defendant not regarding his said several promises and undertakings so by him made in this behalf as aforesaid, but contriving, and fraudulently intending craftily and subtilly to deceive and defraud the said V. I. before he became such book

rupt as aforesaid, and the said plaintiff as such assignee as aforesaid since hath not as yet paid the said several sums of money in those promises and undertakings mentioned, or any, or either of them; or any part thereof, either to the said V. L. before he became such bankrupt as aforesaid, or to the said plaintiff as such assignee as aforesaid since, (although to do this defendant was requested by the said V. L. before he became such bankrupt as aforesaid, to wit, on the day and year aforesaid, and often afterwards, to wit, at, &c. aforesaid, and by said plaintiff as such assignee as aforesaid, since the said V. L. became such bankrupt as aforesaid, to wit, on the day of , A. D. and often, both before and afterwards, to wit, at, &c. aforesaid), but he the said defendant to pay the same, or any part thereof hath always wholly refused, and he doth still refuse to pay the same or any part thereof to the said plaintiff as such assignee as aforesaid his damages of pounds, for which he brings his suit, &c. If in B. R. add pledges.

Yet the said W. (the intestate) in his lifetime, and the said R. administratrix as aforesaid, after the death of the said W. and before her intermarriage with the said P. and the said P. and R. his wife, administratrix as aforesaid, since their intermarriage, not regarding the said several promises, &c. of the said W. in his lifetime, but contriving, &c. to defraud the said E. (plaintiff's testator) in his lifetime, and the said plaintiff, executor as aforesaid, since his death, in this respect have not, nor hath either of them paid, &c. (although so to do the said W. in his lifetime, and the said R. since his death, and before her intermarriage with the said P. and the said P. and R. administratrix as aforesaid, since their intermarriage were often requested by the said E. in his lifetime, and the said P. and R. since their intermarriage have been requested by the said plaintiff since the death of the said E. to wit, on, &c. and often afterwards, to wit, at, &c. aforesaid), but they, or either of them, to pay the same or any part thereof; have and each of them hath hitherto wholly refused; and the said P. and R. still refuse to the said plaintiff, executor as aforesaid, his damage of forty pounds, for which he brings his suit, &c.; and he also brings into court here, &c. (Profert of letters testamentary.)

Yet the said A. (the intestate) in his lifetime, and the said C. and B. his wife, administratrix as aforesaid since his death, not regarding the said several promises, &c. of the said A. so by him made as aforesaid, but contriving, &c. have not, nor hath either of them as yet paid the said several sums of money, or any part thereof, to the said plaintiff, (although so to do the said A. in his lifetime, to wit, on, &c. and the said C. and B. his wife, administratrix as aforesaid since his death, to wit, on, &c. and often afterwards were respectively requested by the said plaintiff, to wit, at, &c. aforesaid), but the said A. in his lifetime, and the said C. and B. his wife, administratrix as aforesaid since his death, have and each

Conclusion  
declaration  
assumps. against  
an administratrix where  
band and will  
are sued.



fold, &c. work and labour, &c. money had and received, and account stated.]

Yet the said defendant not regarding, &c. but contriving, &c. Conclusion. to deceive and defraud, as well the said John and Richard Smith, before the said Richard Smith became such bankrupt as aforesaid, as also the said John, Thomas, and Samuel, together with one deceased, (who in his lifetime, and at the time of his death was joint assignee with them the said Thomas and Samuel of the estate and effects of the said John Smith) since the said Richard Smith became a bankrupt as aforesaid in this behalf, hath not paid the said several sums of money, &c. either to the said John and Richard Smith, or either of them, before the said Richard Smith became such bankrupt as aforesaid, or to the said Thomas, Samuel, and , deceased, or any, or either of them since the said Richard Smith became such bankrupt as aforesaid, (although, &c. by, &c. before the said Richard Smith became bankrupt as aforesaid, to wit, on the day and year aforesaid, and often afterwards, as also by the said John, Thomas, and Samuel, and since the said Richard Smith so became bankrupt, to wit, at, &c. aforesaid), but he to pay the same or any part thereof hath hitherto wholly refused, and still refuses to pay the same to the said John, Thomas, and Samuel, to the damage of the said John, Thomas, and Samuel of fifty pounds, for which they bring their suit, &c. Pledges, &c.

The request.

A. B. complains of C. D. being in the custody of the sheriff of the county of , by virtue of a *latitat* issuing out of the court of our lord the king, before the king himself here at the suit of the said A. B. and returnable before our said lord the king at Westminster, in a plea of, &c.

Vide 4. and 5. W. and M. ch. 21. and 1. Will. 119. Impey's Practice, 45

A. B. complains of C. D. being in the custody of the marshal of the Marshalsea of our lord the now king, before the king himself, and G. H. being a prisoner in the custody of H. T. esquire, sheriff of the county palatine of Lancaster, by virtue of a writ of *latitat* issuing out of the court of our said lord the king, before the king himself, here at the suit of the said A. B. and returnable before our said lord the king at Westminster, on, &c. directed to the chancellor of the county palatine of Lancaster, or to his deputy there, and by virtue of a writ and mandate of our said lord the king, under the seal of the said county palatine of Lancaster, directed to the sheriff of the said county palatine of Lancaster, at the suit of the said A. B. of a plea of, &c.

Beginning a declaration against one defendant, the o in custody of sheriff of county palatine of Lancaster Pursuant to 4. and 5. and M. c. 1. 2. and Vide the b of practice the Marsha

Easter Term, 22. Geo. III.

Declaration at  
the instance of an admin-  
istrator by  
power of attor-  
ney.

Conclusion.

LONDON, to wit. James Miller, administrator of all and singular the goods, chattels, and credits which were of George Withart, deceased, at the time of his death, who died intestate, for the use and benefit of John Withart, George Withart, the nephews, and Jane Withart the niece, and only next of kin of George Withart deceased, complains of Hobbe, otherwise Hobby, (who was served with process by the name of Hobby), being, &c. in a plea of trespass on the case, &c.; for that whereas [ &c. counts for money had and received, money lent, money laid out, and an account stated, &c. in the lifetime of the intestate ], yet the said defendant not regarding his said several promises and undertakings so by him in manner and form as aforesaid made, but contriving, &c. to deceive, &c. the said intestate in his lifetime, and the said plaintiff, (to whom as the lawful attorney of the said John Withart, George Withart, and Jane Withart, the next of kin of the said (intestate), administration of all and singular the goods and chattels, rights and credits which were of the said intestate deceased, for the use and benefit of the said John Withart, George Withart, and Jane Withart, his next of kin as aforesaid by Frederick, by divine providence, &c. on the eleventh day of February, A. D. 1782, at London, &c. aforesaid, in due form of law committed) after his death, hath not as yet paid the said several sums of money in the promises and undertakings respectively mentioned, or any, or either of them, or any part thereof, either to the said intestate in his lifetime, or to the said J. H. administrator as aforesaid, or to the said John Withart, George Withart, and Jane Withart, the next of kin of the said (intestate) or any, or either of them since his death, (although to pay the same he the said defendant was requested by the said (intestate) in his lifetime, to wit, on the aforesaid day of , and often afterwards, to wit, at, &c. aforesaid, and by the said plaintiff, administrator as aforesaid since the decease of the said intestate, to wit, on, &c. and often afterwards, to wit, at, &c. aforesaid), but he to pay the same, or any part thereof, hath always wholly refused, and still refuses to pay the same, or any part thereof to the said plaintiff, administrator in form aforesaid to the said plaintiff, as such administrator as aforesaid, his damages of one hundred pounds, for which he brings his suit, &c.; and he also brings into court here the letters of administration of the said archbishop, bearing date the day and year aforesaid in that behalf above mentioned, whereby the granting of the administration aforesaid to him the said plaintiff is sufficiently testified and shewn to the court here, &c. Pledges, &c.

to wit. C. D. by virtue of his majesty's writ of *monition in justices*, was attached to answer A. B. of a plea of trespass upon the case to the damage of the said A. B. of ten pounds, and the pledges to prosecute are John Doe and Richard Roe; and whereupon

upon the said (plaintiff) by E. F. his attorney complains; for that whereas the said defendant, on, &c. at, &c. and within the jurisdiction of this court was indebted, &c. Omit pledges.

WILLIAM WITTER, late of the parish of Saint Mary-le-  
bone, in the county of Middlesex, esquire, was summoned to an-  
swer Isaac Walker, Francis Newton, and John Colvill, assignees  
of the estate and effects of Samuel Bean, a bankrupt, within the  
true intent and meaning of the statutes made and provided and now  
in force concerning bankrupts; and Collin Mackenzie, Thomas  
Bell, and Alexander Grant, assignees of the estate and effects of  
Lewis Cuthbert, a bankrupt, &c. that he render to them five  
hundred and ninety-four pounds eight shillings and fourpence of  
lawful money of Great Britain, which he owes to and unjustly  
detains from them; for that whereas the said Samuel Lewis, and  
also one David Bean, since deceased, in the lifetime of the said  
David, and which said David afterwards and before the said Sa-  
muel and Lewis became bankrupts died, and the said Samuel and  
Lewis survived him, to wit, at, &c. heretofore, to wit, on, &c.  
at, &c. [Go on with declaratory part.]

Beginning of  
declaration in  
debt on a judg-  
ment in a fo-  
reign court by  
original in B.R.  
at suit of the se-  
parate assignees  
of two partners,  
bankrupts, who  
survived a third,  
who died before  
the bankruptcy  
of the other  
two.

And that neither the said Samuel Lewis and David, or either of  
them, in the lifetime of the said David, nor the said Samuel  
Lewis, or either of them, since his decease, nor the said Isaac,  
Francis, Collin, Thomas, and Alexander, as assignees as afore-  
said, or either of them, have obtained execution of the aforesaid  
judgment, and the said Isaac, Francis, John, Collin, Thomas,  
and Alexander in fact say, that the debt, costs, and charges afore-  
said recovered as aforesaid, amount to a large sum of money, to  
wit, to the sum of one hundred and fifty-eight pounds eight shil-  
lings and ninepence of lawful money of Great Britain, that is to  
say, at Westminster, in the said county of Middlesex, whereby  
an action hath accrued to the said Isaac, Francis, John, Collin,  
and Alexander, to demand and have of and from the said William  
the said sum of one hundred and fifty-eight pounds eight shillings  
and ninepence of like lawful money of Great Britain, parcel of  
the said sum of five hundred and ninety-four pounds eight shillings  
and fourpence above demanded.

Conclusion.  
Vide Doug.  
Rep. fo. 1.

LANCASHIRE, to wit. John Leach, late of in the coun-  
ty of Lancaster, yeoman, was attached to answer John Smith, and  
Mary his wife, which said Mary is administratrix of all and sin-  
gular the goods, chattels, and credits which were of Joseph  
Smith at the time of his death, who died intestate, the late hus-  
band of the said Mary, in a plea of trespass on the case, &c. and  
whereupon the said John and Mary, the said Mary being such

Beginning and  
conclusion of a  
declaration in  
assumpsit, in  
C. P. at Lan-  
caster, at the  
suit of husband and  
wife, admini-  
stratrix of the  
former husband

administratrix as aforesaid, by Thomas Myers their attorney complain, that whereas, &c. [Go on with the declaratory part.]

**Conclusion.**

Yet the said defendant not regarding his said several promises and undertakings so by him made as aforesaid, but contriving and fraudulently intending craftily and subtilly to deceive and defraud, as well the said James Smith in his lifetime, as the said Mary, administratrix as aforesaid after his decease (to which the said Mary before her intermarriage with the said John, administration of all and singular the goods, chattels, and credits which were of the said Joseph Smith, deceased, at the time of his death was by on the day of in the year of Our Lord 1788, to wit, at Preston aforesaid, in the county aforesaid, in due form of law committed), as also the said John and Mary (as the said Mary is administratrix in form aforesaid, since their intermarriage in this behalf hath not as yet paid the said several sums of money in those promises and undertakings, or any, or either of them, or any part thereof, either to the said Joseph Smith in his lifetime, or to the said Mary, administratrix as aforesaid since his death, before her intermarriage with the said John, nor to the said John and Mary, or either of them since their intermarriage, (although to pay the same the said defendant was requested by the said Joseph Smith in his lifetime, to wit, on the day and year first above mentioned; and by the said John and Mary, since the death of the said Joseph Smith, and since the intermarriage between the said John and Mary, to wit, on the first day of February, in the year of Our Lord 1789, and often afterwards, to wit, at Preston aforesaid, in the county aforesaid), but he to pay the same hath altogether refused, and still refuses to pay the same to the said John and Mary, to the damage of the said John and Mary, (as the said Mary is such administratrix as aforesaid of fifty pounds), and therefore they bring their suit, &c.; and they bring into court here the letters of administration of the said archbishop, which sufficiently testify to the court here the granting of the administration aforesaid to the said Mary, the date whereof is the day and year in that behalf abovementioned.

Hilary Term, 26. Geo. III.

*Præcipe for original in B. R. in case upon promises against a member of parliament and common person jointly.*

LONDON, to wit. If Joseph Clarke, Thomas Rigge, and John Crompton make you secure, &c. then put by sureties and safe pledges Henry Cruger, late of London, esquire, (he having privilege of parliament), Thomas Lediard, Thomas Mullet, late of London, merchants, that they be before us in fifteen days of Saint Hilary, wheresoever we shall then be in England, to shew; for that whereas, &c.

Trinity Term, 4. Geo. III.

*Bill against a member of parliament in debt upon bond.*

To the justices of the lord the king of the bench.

DORSETSHIRE, to wit. Grace Lambert, widow, by Michael Barber, her attorney, complains of Michael Hawey, esq.



90 FORMS.—PRISONER'S DISCHARGE—WARRANT OF ATTORNEY—

To John Ashton, esquire, Marshall of the King's Bench.

authority to THESE are to desire and authorize you to discharge out of  
ie marshal of your custody the body of John Shore, esquire, notwithstanding  
ie K. B. to any account, judgment, or execution he stands charged with  
discharge a pri- you, at the suit of ; and for so doing this shall be your suffi-  
mer out of cient warrant. Witness my hand this day of , 1749.  
istody.

K. W. attorney for the plaintiff.

To Mr. P. P. and M. M. gentlemen, attornies of his majesty's court of K. B. at Westminster, jointly and severally, or to any other attorney of the same court.

Warrant of an attorney to confess judgment in default.

THESE are to desire and authorize you the attornies above named, or either of you, or any other attorney of the said court of king's bench at Westminster, to appear for one John Harris, of New North street, &c. in the same county, as of last Hilary term, Easter term next, or of any other subsequent term, and then and there to receive a declaration for me in an action of trespass and ejectment, at suit of John Doe, for two messuages, two cottages, two dwelling houses, two orchards, two gardens, ten acres of land, ten acres of meadow, and ten acres of pasture ground, with the appurtenances, in the parish of Pilton, in the county of Somerset, which Edward Parker, of Roll's Buildings, Fetter lane, London, upon the day of the date hereof at Pilton afore said, did demise to the said John Doe and his assigns for the term of seven years, to commence from the day next before the day of the date hereof, and thereupon to confess the same action, or else to suffer judgment by default, or otherwise to pass therein, for the said John Doe to recover against me his term yet to come of and in the said messuages, cottages, or dwelling houses, lands and tenements, with the appurtenances, and to be therein forthwith entered up upon record, and for your so doing this shall be to you, or either of you, or any other attornies as afore said, yours, his, their, or any of them, sufficient warrant; in witness whereof, I, the said John Harris, have hereunto put my hand and seal the twenty-ninth day of February, in the year of Our Lord 1766.

J. HARRIS.

John Redding, attorney for J. Harris.

Sealed and delivered, being first duly stamped, }  
in the presence of WILLIAM TALBOTT. }

ISSUES.

Easter Term, 35. Geo. III.

due in debt against two defendants, where he pleads nul t record, and ie other lets judgment go by default with sicu taxati.

MIDDLESEX, to wit. T. C. and J. R. were summoned to answer C. B. in a plea, [Here set out the declaration to the end], and the said T. C. in his own proper person comes and defends, &c. (to the end of the plea); and the said C. B. as to the said plea of, &c. (to the end of replication); and the said J. R. in his own proper person comes and defends the wrong and injury when, &c. and says nothing in bar or preclusion to the said action

of

of the said C. B. by which the said C. B. remains therein undefended against the said J. R. wherefore the said C. B. ought to recover against the said J. R. his said debt, and also his damages by reason of the detaining thereof, but because it is unknown to the justices of our lord the king now here what damages the said C. B. hath sustained by reason of the detaining the said debt, and because it is also at present unknown to the said justices here whether there be such a record of the recovery against the said T. C. remaining in the said court of the bench aforesaid, as the said C. B. hath by his declaration above alledged, and because it is necessary and convenient that there be but one taxation of damages in this suit, therefore let the giving of judgment in this behalf against the said J. R. be stayed until the determination of the said issue between the said C. B. and the said T. C.

*Drawn by MR. TIDD.*

Easter Term, 7. Geo. III.

BE it remembered, that of Hilary term last past before our issue and writ lord the king at Westminster came James Roughly, by Thomas <sup>comus</sup> Weston his attorney, and brought into the court of the said city of Chester, lord the king then there his certain bill against Mary Martin, being in the custody of the sheriff of Denbigh, by virtue of his majesty's writ of *latitat* issued out of the court of our said lord the king, before the king himself, at the suit of the said J. R. directed to the sheriff of the county of Denbigh, of a plea of trespass on the case, and there are pledges for the prosecuting, to wit, John Doe and Richard Roe. which said bill follows in these words, that is to say, city of Chester, to wit: John Roughly complains, &c. and now at this day, that is to say, on Wednesday next after fifteen days from Easter day in this same term, until which day the said Mary Martin had leave to impart to the bill aforesaid, and then to answer, &c. before the lord the king at Westminster, come as well the said John Roughly by his attorney aforesaid, as the said Mary Martin by John Leache her attorney, and the said Mary Martin defends the wrong and injury when, &c. and says that she did not take upon herself and promise in manner and form as the said John Roughly above complains against her, and of this she puts herself upon the country, and the said John Roughly doth the same likewise; therefore let there be a jury made thereof, and because the men of the city of Chester and county of the same city ought not nor have been used to come out of the same city and county of the same city to try an issue joined in the same city and county of the same city, let the record of the plaint aforesaid be sent to the chamberlain of our said lord the king of his county palatine of Chester, or his deputy there, so that the said chamberlain or his deputy there, by writ of our lord the king under the seal of our said county palatine duly to be made out, do cause the record to be sent to the mayor of the said city of Chester, commanding the said mayor, that for trying the issue aforesaid, the said mayor do command the sheriffs

## FORMS—NOTICE OF TRIAL—ISSUES TO COUNTY PALATTINE

of the same city and county of the same city, that they cause to come before the said mayor at a certain day and place by the said mayor to be appointed after the said record shall have been delivered to him, twelve free and lawful men of the city and county aforesaid, each of whom having ten pounds a year at least of lands, tenements, or rents, by whom the truth of the matter in question may the better be known and inquired into, and who are in no wise a kin either to the said John Roughly or the said Mary Martin, to recognize and make a certain jury of the country between the said plaintiff in the plea aforesaid, because as well the said J. R. as the said M. M. between whom the variance is, have put themselves upon that jury, and when the verification and issue shall have been there made and tried, then the said mayor shall send the record of the plant aforesaid, with every thing that in the court of our said lord the king there hath been done to the said chamberlain or his deputy, so that the said chamberlain or his deputy may remit the said record into the court of our said lord the king, before the king himself here, at a certain day which the said mayor shall appoint to the said parties to hear judgment thereupon.

Between { JOHN ROUGHLY, plaintiff,  
and  
MARY MARTIN, defendant.

MR. LEACHE,

Notice.

TAKE notice, that this cause will be tried at the portmote court to be holden for the city of Chester and county of the same city in the common hall of pleas there on Monday the ninth day of June next. Dated this twenty-seventh day of May 1768.

J. WILSON, agent for the plaintiff.

in a county  
al. time.

THEREFORE let there be a jury made thereof, and because the issue aforesaid between the parties above joined ought to be tried by men of the county palatine of Lancaster, that is to say, of the body of the same county where his said majesty's writ doth not run, and not elsewhere; therefore as to trying the issue aforesaid between the parties above joined, let the record of the plaint aforesaid be sent to his majesty's justices of the said county of Lancaster, so that the same justices by his majesty's writ of that county duly to be made out, do command the sheriff of the same county, that he cause twelve free and lawful men of the body of the said county of Lancaster to come before the said justices at the next general sessions of assize for the said county after the said record shall be delivered to them, each of whom having ten pounds a year at least on lands, tenements, or rents, by whom the truth of the matter may the better be known and inquired into, and who are no wise related either to the said A. or to the said C. to recognize and make a jury of the country between the said parties in the plea aforesaid, because as well the said C. as the said A. between whom the controversy is, have put themselves upon that jury; and when the verification and issue aforesaid shall be there jury;

made and tried, then the said justices shall send the record of the plaint aforesaid, together with every thing that shall be done thereupon before them in his said majesty's court there to our said lord the king at Westminster, at a certain day which the same justices of the said county palatine shall appoint to the said parties to be in the same court there to hear judgment thereupon, &c.

THEREFORE let a jury come thereupon before our lord the king at Westminster on next after , who are in no wife related either to the said A. B. or to the said C. D. to recognize upon their oath the full truth of and concerning the premises, because as well the said C. D. as the said A. B. between whom the matter in variance is, have put themselves upon that jury, the same day is given to the said parties to be there, &c. Issue in Middlesex.

AND of this he puts himself upon the country; and the said A. B. doth so likewise; therefore the sheriff is commanded, that he cause to come here twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; and this he prays may be inquired of by the country, &c. therefore, &c. Issue by the defendant.

AND the said C. by A. B. his attorney, comes and defends the wrong and injury when, &c. and says nothing in bar or denial of the aforesaid action of the said A. whereby the said A. remains therein undefended by the said C. therefore it is considered that the said A. ought to recover his damages against the said C. by reason of the not performing the several promises and undertakings before mentioned, but because *the court of our said lord the king now here doth not know it is not known* what damages the said A. hath in this behalf sustained; therefore the said sheriff of the said county is commanded that he diligently inquire by the oath of good and lawful men of his bailiwick, what damages the said A. hath sustained, as well by reason of the not performing the promises and undertakings aforesaid, as for his costs and charges laid out by him about his suit in this behalf: and that he make appear the inquisition which he shall take thereof to the justices of our said lord the king at Westminster, on , under his seal, and the seals of those by whose oath he shall take such inquisition, together with the king's writ to him thereupon directed, &c. Nil dicit in case on promises.

AND now at this day, that is to say, on next after , in this same term, until which day the said T. P. had leave to impart to the aforesaid bill, and then answer the same as he should be advised, come as well the said J. D. by his said attorney as the said T. P. by R. S. his attorney, before our said lord the king at Westminster, and the said T. P. defends the wrong and injury, when, &c. and saith that he is in no wise guilty of the trespasses above laid to his charge in manner and form as the said J. D. hath above Form of an issue into the county palatine of Lancaster, and its parlance.

## ISSUES.—DIRECTIONS TO MAKE UP

above complained against him; and of this he puts himself upon the country; and the said J. D. doth the like; therefore let a jury come thereupon; and because the issue aforesaid between the parties above joined ought to be tried by men of the county palatine of Lancaster, that is to say, of the body of the same county, where his said majesty's writ doth not run, and not elsewhere; therefore as to trying the issue between the parties above joined let the record of the plaint aforesaid be sent to his majesty's justices of the said county palatine of Lancaster, so that the same justices by his majesty's writ of that county duly to be made out do command the same sheriff of the same county, that he cause twelve free and lawful men of the body of the said county palatine of L. to come before the said justices at their next general sessions of assize to be holden for the said county after the said records shall be delivered to them, each of whom to have ten pounds a-year at least in lands, tenements, or rents, by whom the truth of the matter may the better be known and enquired into, and who are in no wise related either to the said J. D. or to the said T. P. to recognize and make a jury of the country between the said parties in the plea aforesaid, because as well the said T. P. as the said J. D. between whom the controversy is, have put themselves upon that jury; and when the verification and the issue aforesaid shall have been there made and tried, then the said justices shall send the record of the plaint aforesaid, together with every thing that shall be done thereupon before them in his said majesty's court there to our said lord the king at Westminster at a certain day which the same justices of the said county palatine shall appoint to the same parties to be in the same court there to hear judgment thereupon, &c.

**Issue in C. B.** <sup>an</sup> [In the ordinary proceedings in C. P. there is no memorandum (as there is in K. B.) but having put the prothonotary's name and the term at the top, you are to begin with the declaration, and go quire to the end of it, and then begin a new line with the issue part as follows:]

**not pro-** And the aforesaid C. by G. H. his attorney, comes and defends the wrong and injury, when, &c. and saith that he did not undertake, and promise in manner and form as the said A. hath above complained against him; and of this he puts himself upon the country; and the said A. doth the like; therefore the sheriff is commanded that he cause to come on twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.

**guilty in** As above, till "and saith that" he is in nowise guilty of the premises above laid to him as the said A. hath above complained against him; and of this he puts himself upon the country, &c. (as above.)

And

And faith that he is not guilty of the trespasss aforefaid as the  
faid A. hath above complained againft him, &c. (as before.)

Not guilty in  
trespasss.

And faith that he is not guilty of the trespasss and assault afore-  
faid as the faid A. hath above complained againft him, &c. (as  
before.)

Not guilty in  
assault.

And faith that he is not guilty of the trespasss and ejectment  
aforefaid as the faid A. hath above complained againft him, &c.  
(as above.)

Not guilty in  
ejectment.

And faith that he doth not owe to the faid A. the aforefaid  
pounds. or any part thereof, in manner and form as the faid A.  
hath above complained againft him (as before.)

*Nil debet.*

And faith that he ought not to be charged with the aforefaid  
debt by virtue of the writing aforefaid ; becaufe he faith that the  
faid writing is not his deed, &c. of this, &c.

*Non est factum.*

And faith that the writing aforefaid is not the deed of the faid  
E. the testator ; and of this, &c.

By an ex-  
ecutor.

### Trinity Term, . Geo. III.

STAFFORDSHIRE, to wit. Be it remembered, that here-  
tofore, that is to say, in the term of (a) last past, A. B. came  
before our lord the king at Westminster by E. F. his attorney,  
and brought in the court of our faid lord the king then there his  
bill againft C. D. being in the custody of the marshal of the Mar-  
shalsea of our sovereign lord the now king, before the king him-  
self, in a plea of (b) ; and there are pledges for the prosecution  
thereof, to wit, John Doe and Richard Roe, which faid bill fol-  
lows in these words, to wit, [go on with the declaration.]

To make up as  
issue of a dif-  
ferent term from  
the declaration  
(a) The term  
the declaration  
is of.  
(b) As in the  
declaration.

[Then beginning a new line begin your imparlance thus:]

And now at this day, that is to say, (a) in this same term,  
until which day the faid C. D. had leave to imparl to the afore-  
faid bill, and then to answer the same as he should be advised, came  
as well the faid A. B. by his attorney as the faid C. D. by G. H.  
his attorney, before our faid lord the king at Westminster, and  
the faid C. D. defends the *wrong and injury* (b) laid to his charge  
by the faid A. B. in his declaration aforefaid, which he will be  
ready to defend when and where, and in such manner as the court  
shall award,

Imparlance.  
(a) The first  
day of the term  
issue is joined.  
(b) If in tres-  
passs, assault, im-  
prisonment, or  
ejectment, *wrong  
and injury.*

And faith that he did not (a) undertake and promise in manner  
and form as the faid A. B. hath above complained against him ; and is  
of this he puts himself upon the country ; and the faid A. B. doth the  
like ; therefore let a jury come before our lord the king at West-  
minster

(a) As the plea  
is.

(a) If the venue is laid in the country, then this return must be the last return of the term in which the issue is joined; but if the venue is in London, then the return day before the trial. (b) The person who first joined issue.

[To make up an issue of the same term of the declaration. If the issue is joined the same term the declaration is of, then you must enter it thus:]

(c) The first day of term. STAFFORDSHIRE, to wit, Be it remembered, that on (c) next after , in this same term, A. B. comes before our lord the king at Westminster by E. F. his attorney, and brings into the court of our said lord the king now here his bill against C. D. being in the custody of the marshal of the Marshalsea of our said lord the king, before the said lord the king in a plea of trespass on the case, &c.; and there are pledges for the prosecution thereof, to wit, John Doe and Richard Roe; which said bill follows in these words, to wit, Staffordshire, to wit, [set out the declaration.]

[The memorandums of the same term with the declaration hath no imparlance, but after the declaration you enter the plea thus, beginning a new line:]

Plea. And the said C. D. by G. H. his attorney, comes and defends the wrong and injury, when, &c. (as before.)

Replication. If the plaintiff (upon a replication or otherwise) takes issue on the defendant's pleadings, then instead of "and of this, &c." say, "and this he prays may be enquired of by the country;" and the said C. D. the defendant doth the like; therefore let a jury, &c. (as above, till) because as well the said A. B. the plaintiff, as the said C. D. between whom the matter aforesaid in variance is, have put themselves upon that jury; the same day, &c.

[If there are two issues joined, as on *son assault demesne*, &c. you must conclude the issue thus:]

Double issue. Therefore as well to try the said issue as the said other issue above joined between the said parties, let a jury come before, &c. (as last above.)

Issue into the portmote court of the city of Chester. Therefore let a jury be made thereof, and because the men of the said city of Chester ought not, nor have been used to come out of the said city of Chester and county of the same city to try any issue joined in the same city and county of the same city; therefore for the trying the issue aforesaid between the parties above joined triable in the said city of Chester in the county of the

the same city, let the record of the plaint aforesaid be sent to the chamberlain of the said lord the king of his county palatine of Chester, or his deputy there, so that the said chamberlain or his deputy there, by writ of the said lord the king under the seal of the said county palatine duly to be made out, do cause the record aforesaid to be sent to the mayor of the said city of Chester, commanding the said mayor, that for the trying the issue aforesaid the said mayor do command the sheriffs of the said city of Chester and county of the same city that they cause to come before the said mayor at a certain day and place by the said mayor to be appointed after the said record shall have been delivered to him twelve free and lawful men of the body of the city aforesaid and county of the same city, each of whom to have ten pounds per year at least in lands, tenements, or rents, by whom the truth of the matter in question may the better be known and enquired into, and who are in no wise related either to the said T. the defendant or the said H. the plaintiff, to recognize and make a jury of the country between the said parties in the plea aforesaid, because as well the said H. as the said T. between whom the controversy is, have put themselves upon that jury; and when the verification and issue aforesaid shall be there made and tried, then the said mayor shall send the record of the plaint aforesaid, together with every thing that in the court of the said lord the king there hath been done to the said chamberlain or his deputy, so that the said chamberlain or his deputy may remit the said record into the court of the said lord the king before the king himself here at a certain day which the said mayor shall appoint to the same parties to be in the same court here to hear judgment thereupon, &c.

Take notice of trial in this cause for the next portmote court to be held by adjournment on the day of , in the common hall of pleas in and for the city of Chester. Dated, &c.

### CONTINUANCES.

[Venire entered on the roll, and to be entered immediately after the issue, beginning in the same line on which the issue ends.] *Poste, nuance by*  
At which day the said parties come before our said lord the king at Westminster by their said attornies, and the sheriff of the said county did not return the writ, nor did he do any thing thereupon; therefore as before let a jury thereupon come before our said lord the king at Westminster on next after , and who neither, &c. to recognize, &c. because as well, &c; the same day is given to the said parties there, &c.; at which day the said parties come, &c. (and so continue it from term to term from that term in which the issue is joined to the term next preceding the trial of the cause.)

[If final judgment is not entered up till the term after that in which the *distringas* is returnable, then immediately after the end

## ENTRIES.—CONTINUANCES—

As above. end of the *poslea* (a), and before the entry of the judgment you must go on in the same line as follows:]

But because the said court of our said lord the king now here is not informed of their judgment § to be given of and upon the premises, day is further given to the said parties (b) to come before our said lord the king at Westminster until next after to hear their judgment thereof, because the said court of our said lord the king now here is not yet advised thereof, &c.; at which day the said parties (c) come before our said lord the king at Westminster by their said attorneys, and thereupon all and singular the premises being seen and fully understood by the court here, it is considered that the said A. recover, &c. (to the end of the final judgment.)

by the the de-  
mt is to  
made de-  
at the af-  
then say  
is given to  
said A. to  
, &c.  
here say, at  
h day the  
A. comes

before our said lord the king at Westminster by his said attorney.

[If the judgment is not given in the next term after that in which the *distringas* is returnable, the *poslea* must be continued as above from term to term from the term in which the *distringas* is returnable to the term in which the judgment is given, and for that purpose you must begin the second continuance thus (at mark §); at which day the said parties came before our said lord the king at Westminster aforesaid by their said attorneys; but because the said C. &c. (as above to this mark §, and repeat it as often as you are to continue the terms), and after the last continuance conclude thus: And therefore all and singular the premises being seen, &c. (as above), to the end.]

The above continuances will do also upon a demurrer.

and final  
after  
continuance on  
roll of the

AFTERWARDS the proceedings thereon are continued between the parties aforesaid of the plea aforesaid by the jury being returned between them before our lord the king at Westminster until then next following, unless his majesty's right trusty and well beloved William earl of Mansfield, his said majesty's chief justice assigned to hold pleas in his said majesty's court before the king himself should first come for default of jurors at *Westminster Hall, in the county of Middlesex aforesaid*, [at Guildhall, London] on next after , according to the form of the statute, &c.; at which day the said J. H. comes before our said lord the king at Westminster by his said attorney, and the aforesaid chief justice, before whom, &c. now sendeth here his record taken before him in these words, to wit, afterwards, that is to say, on the day and at the place within contained, before William earl of Mansfield, the chief justice within mentioned, *W. B. gentleman, being associated unto the said chief justice*, [there being associated to him J. S. gentleman] according to the form of the statute, &c. the within-named J. H. cometh by his attorney within mentioned, and the within-named J. S. although solemnly required, comes not, but maketh default; therefore let the jury whereof

whereof mention is within made be taken against him by default, and the jurors of that jury being drawn by ballot, according to the form of the statute, &c. and called over, and come, and being elected, tried, and sworn to speak the truth of the matter within contained, say upon their oath that the said J. S. did undertake and promise in manner and form as the said J. H. hath within complained against him; and they assess the damages of the said J. H. by reason of not performing the promises and undertakings within written, besides his costs and charges laid out by him about his suit in this behalf, to                      pounds, and for his said costs and charges to forty shillings; therefore it is considered that the said J. H. recover against the said J. S. his debt *and the damages by the jury aforesaid in manner aforesaid assessed, and also*                      pounds [the said damages assessed by the said jury in manner aforesaid, and also                      pounds] for the increase of his said costs and charges adjudged by the court of our said lord the king now here to the said J. H. at his request, which said damages amount in the whole to                      pounds; and the said J. S. in mercy, &c.; afterwards the proceedings thereon are continued, but the parties aforesaid of the plea aforesaid by the jury being respited between them before our lord the king at Westminster until                      next after                      then next following, unless the king's justices assigned to take the assizes in the county of the same city should first come on the                      day of                      at the Guildhall of the city of B. aforesaid in the county of the said city; according to the form of the statute, &c. for default of the jurors, because none of them came; *at which day the said A. comes (a)* before our said lord the king at Westminster by his said attorney, and the said justices of assize before whom, &c. now send here the record taken before them in these words, to wit, afterwards, that is to say, [to the end of the *poslea*, and then go on in the same line in the same line as follows]; therefore it is considered, &c.

If in debt.

Continuance  
at the assizes.

(a) The entry is thus when the defendant is returned to have made default by the *poslea*; but if he is returned to appear at the assizes, then say, *the said parties come by their said attorney.*

## Hilary Term, 8. Geo. III.

AND the sheriff of the said county hath not sent back the said writ to him as aforesaid directed, nor did he do any thing thereon; therefore as before the sheriff of the county of Middlesex aforesaid is commanded, that by the oath of twelve, &c. of his bailliwic he diligently enquire in the manner aforesaid, and that he send the inquisition which he should take thereon to our lord the king at Westminster on Monday next after                      under his seal and the seals of those by whose oath he shall take such inquisition, together with the said writ to him as above directed; the same day is given to the said William at the same place, &c.; at which day before our lord the king at Westminster the said William comes by his attorney aforesaid, and the sheriff

Continuances  
by non misit breve

—CONTINUANCES BY NON MISIT BREVE.

sheriff of Middlesex aforesaid did not send back the said writ to him as aforesaid directed, nor did he do any thing thereupon; therefore as before the sheriff of the said county of Middlesex is commanded, that by the oath of twelve, &c. of his bailiwick he diligently enquire in the manner aforesaid, and that he send back the inquisition which he shall take thereon to our said lord the king at Westminster on Monday next after the octave of Saint Hilary under his seal and the seals of them by whose oath he shall take that inquisition, together with the said writ to him as above directed; the same day is given to the said William at the same place, &c.; at which day before our lord the king at Westminster the said William comes by his attorney aforesaid, and the sheriff of Middlesex aforesaid did not send back the said writ to him as aforesaid directed, nor did he do any thing thereupon; therefore as before the sheriff of the said county of Middlesex is commanded, that by the oath of twelve, &c. of his bailiwick he diligently enquire in manner aforesaid, and that he send the inquisition which he shall take thereon to our lord the king at Westminster on Wednesday in fifteen days of Easter, under his seal and the seals, &c. he shall take that inquisition, together with the said writ to him as above directed; the same day is given to the said William at the same place, &c.; at which day before our lord the king at Westminster the said William comes by his attorney aforesaid, and the sheriff of Middlesex aforesaid did not send back the said writ to him as aforesaid directed, nor did he do any thing thereupon; therefore as before the sheriff of the said county of Middlesex is commanded, that by the oath of twelve, &c. he diligently enquire in the manner aforesaid, and that he send the inquisition which he shall take thereon to our lord the king at Westminster on, &c. under his seal and the, &c. he shall take such inquisition, together with the said writ to him directed; the same day is given to the said William at the same place, &c.; at which day before our said lord the king at Westminster the said William comes by his attorney aforesaid, and the sheriff of Middlesex did not send back the writ to him aforesaid directed, nor did he do any thing thereupon; therefore as before the said sheriff of Middlesex is commanded, that by the oath of twelve, &c. he diligently, &c. and that he send the inquisition which he shall take thereon to our lord the king on, &c. under, &c. he shall take such inquisition, together with the king's writ to him thereon directed; the same

same day is given to the said W. at the same place, &c. at which day the said W. comes here before our said lord the king at Westminster by his said attorney and the sheriff, namely, J. T. esq. and J. S. esq. sheriff of the said county of Middlesex, now returneth here a certain inquisition taken before him at G. in the said county, the nineteenth day of May, in the tenth year, &c. by the grace, &c. on the oath of twelve, &c. by which it is found that the said W. hath sustained damages by reason of the not performing the several promises and undertakings aforesaid, besides his costs and charges by him about his suit in this behalf laid out to twenty-nine shillings, and for those costs and charges to one pound; therefore it is considered, that the said W. recover against the said J. his damages found by the said inquisition; and also thirteen pounds ten shillings adjudged to the said W. at his request by the court of our said lord the king now here for the increase of his said costs and charges, which said damages amount in the whole to thirty-four pounds; and the said J. in mercy, &c.

Judgment sign-  
cd.  
Mercy, &c.

KNOW all men by these presents, that J. E. of, &c. spinster, one of the creditors of G. G. of, &c. mawster and chapman, against whom a commission of bankruptcy, under the great seal of Great Britain hath been awarded and issued, have made, ordained, constituted, and appointed, and by these presents do make, ordain, constitute, and appoint J. O. of, &c. my true and lawful attorney, for me, and in my name, place, and stead, to appear before the commissioners in and by the said commission named and authorized, or the major part of them at Guildhall, London, or elsewhere, at the days and times appointed in the London Gazette for the choice of assignees of the estate and effects of the said G. G. and then and there for me, and in my name, to vote in the choice of one or more assignee or assignees of the said bankrupt's estate and effects as my said attorney shall think most fit and proper for the better management, getting in, and recovering of the said bankrupt's estate and effects; and also for me, and in my name, and my act and deed, to sign such certificates as the commissioners shall make to the right honourable the lord high chancellor of Great Britain, purporting that the said G. G. shall have conformed himself to the directions of the several acts of parliament now in force concerning bankrupts, and particularly the act made in the fifth year of his late majesty's reign, intituled, "An Act to prevent the committing of Frauds by Bankrupts", and thereby signifying my consent that the said G. G. shall have the benefit of such allowances as are given to such bankrupts by the said last-mentioned act; and also for me, and in my name, place, and stead, and to and for my use to ask, demand, sue for, and receive of and from the assignee or assignees of the said bankrupt's estate and effects all such dividend or dividends as the said commissioners, or the major part of them shall from time to time, and at all times hereafter order to be made among the creditors of the

A power of  
attorney for a  
person to act  
under a com-  
mission of bank-  
ruptcy.

said

said G. G. who shall have come in and sought relief under the said commission, and be due, payable, and belonging to me for or on account of my debt or sum of        pounds by me proved under the said commission or any receipt thereof, for me, and in my name, to sign, seal, execute, and deliver all and every such good and sufficient receipts, acquittances, releases, and discharges to the assignee or assignees as shall or may be lawful, fit, and convenient to be done, and generally to do all and every such further and other lawful acts, deeds, matters, and things in the law, for the better executing and discharging the power and authority hereby given, as full and amply to all intents and purposes as I myself might or could do if personally present, hereby ratifying, allowing, and confirming all and whatsoever my said attorney shall or lawfully may do, or cause to be done in and about the premises for the better managing the purposes aforesaid by virtue of these presents; in witness whereof I the said E. H. have to these presents set my hand and seal this        day of        one thousand seven hundred and forty-seven.        E. H.

Scaled,        { G. PEMBERT, }  
                              { J. BENTLEY. }

**A suggestion after a declaration of the death of one of two defendants before plea pleaded.**

AND now at this day, that is to say, Wednesday next after fifteen days from the day of Easter in this same term, until which day the said George Leigh and John Bradshaw had leave to impart to the said bill of the said Jeremiah, and then to answer, &c. before our lord the king at Westminster, came here as well the said Jeremiah by his attorney aforesaid, as the said John by Thomas Winchley his attorney, and the said George Leigh doth not come, and hereupon the said Jeremiah saith, that since the exhibiting the said bill of the said Jeremiah, to wit, on the seventh day of April, in the year of Our Lord 1768, at London aforesaid, in the parish and ward aforesaid, the said George Leigh died, which the said John does not deny, but confesses the same; therefore let there be no further process or proceedings against the said George Leigh; and the said John defends the wrong and injury when, &c. and says, that he did not undertake and promise in manner and form as the said Jeremiah hath above complained against him; and of this he puts himself upon the country; and the said Jeremiah doth so likewise, &c. therefore, &c.

**Suggestion to alter the venire.**

[After the end of the issue proceed as follows]: BUT because it is suggested, and appears to the court here, that the issue above joined between the said parties cannot be fairly and impartially tried by jury of the said town and county of the said town of Kingston upon Hull, therefore let a jury of the county of York, being the county next adjoining to the said town and county of Kingston upon Hull, thereupon come before our lord the king at Westminster on        next after        by whom, &c. and who neither,

ther, &c. to recognize, &c. because as well, &c. the same day is given to the parties at the same place.

*Drawn by MR. TIDD.*

[After the end of the issue proceed as follows] : **THEREFORE**, Issue into county palatine of Chester, in K. B. let there be a jury made thereof, and because the men of the said city of Chester and county of the said city ought not, nor have been used to come out of the said city to try any issue joined in the county of the same city; therefore for trying the issue aforesaid triable in the said city of Chester, let the record of the plaint aforesaid be sent to the chamberlain of our said lord the king of his county palatine of Chester, or his deputy there, so that the said chamberlain, or his deputy, by writ of our said lord the king, under the seal of the county palatine duly to be made out, do cause the record aforesaid to be sent to the mayor of the said city of Chester, commanding the said mayor, that for trying the issue aforesaid, the said mayor do command the sheriffs of the said city that they cause to come before the said mayor at a certain day and place by the said mayor to be appointed, after the said record shall have been delivered to him, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. and when the verification and issue aforesaid shall be there made and tried, then the said mayor shall send the record of the plaint aforesaid, together with every thing that shall be done thereupon before him to the said chamberlain or his deputy, so that the said chamberlain or his deputy may remit the same into the court of our said lord the king, before the king himself at Westminster, at a certain day which the said mayor shall appoint to the said parties to be in the same court then to hear judgment thereon, &c.

**ENGLAND**, to wit. As yet of Hilary term in, &c. our lord the king hath sent to his sheriff of Surry his writ close in these words, that is to say, (copy *latitat verbatim*)—At which day before our lord the king comes the said T. H. in his proper person, and the sheriff of Surry, to wit, here returns that the said J. S. is not found in his bailiwick, and that the said J. S. does not come; therefore the sheriff is commanded (as formerly he was commanded) that he take the said J. S. and John Doe, if they shall be found in his bailiwick, and keep them safely, so that he may have their bodies before the said lord the king at Westminster, on Monday next after eight days of Saint Hilary, to answer to the said J. F. of the plea aforesaid; the same day is given to the said J. F. at the same place, at which day before our said lord the king at Westminster comes the said J. F. in his proper person, and the sheriff hath not sent the said last-mentioned writ, nor hath he done any thing thereupon, and the said J. S. doth not come; therefore the sheriff is commanded, (as often as he was before commanded) that he take the said J. S. and John Doe, if they shall be found in his bailiwick, and keep them safe, so that he may have their bodies

Entry of *latitar*, &c. to save the statute of limitations.  
Return by sheriff of non est inventus.  
*Ad id latitat.*  
Continuances by writ comes non misse breve.  
*Plures latitat.*

D d 2 before

## SUGGESTION.—INTERROGATORIES.—

before the said lord the king at Westminster, on Monday next after eight days of the Purification, to answer the said J. F. of the plea aforesaid; the same day is given to the said J. F. at the same place.

*Drawn by MR. TIDD.*

The entry must be made on a roll etted, and a copy of it made to be which should be carried in and dock-produced in evidence at the trial.

Suggestion of the death of one of the defendants, after re-joinder, and before surrejoinder.

AND now at this day, that is to say, next after until which day the said Thomas (plaintiff had leave to imparl to the said plea of the said Thomas Fogg and William, by them by way of rejoinder above pleaded, and then to answer, &c. before our lord the king at Westminster, came here as well the said Thomas Farrimond, by his said attorney, as the said Thomas Fogg, by his said attorney, and the said William Carlisle doth not come, and hereupon the said Thomas Farrimond suggests to the court here, that since the pleading of the said plea of the said Thomas Fogg and William, by them by way of rejoinder above pleaded, to wit, on the day of in the year of Our Lord, 1794, at aforesaid, the said William Carlisle died, which the said Thomas Fogg confesses to be true; therefore let there be no further proceedings against the said William Carlisle, and as to the said plea by way of rejoinder above pleaded, and whereof the said Thomas Fogg hath above put himself upon the country; the said Thomas Farrimond doth so likewise, &c.

King's Bench, Hilary Term, 32. Geo. III.

THE KING

ENGLAND. Interrogatories exhib-

THOMAS PELLATT. }  
 against }  
 THOMAS PELLATT, for a contempt of the said court: And }  
 you, or are you not, and when did you become an attorney of }  
 this honourable court, or an attorney or solicitor of any, or either, }  
 and which other of the courts of law or equity of our lord the king }  
 of record, and was you, or was you not, such attorney or soli- }  
 citor before, and upon and at all times since the first day of Oc- }  
 tober, one thousand seven hundred and ninety-one: Was Wil- }  
 liam Jefferys, of Chatham, in the county of Kent, against whom }  
 together with yourself the writ of attachment of this honourable }  
 court has issued, at any time, and when admitted to act as an at- }  
 torney of this honourable court, or as an attorney or solicitor of }  
 any other court of law or equity; if yea, when and where, by }  
 and before whom was the said William Jefferys so examined, }  
 sworn, or admitted, set forth according to the best of your know- }  
 ledge, information, remembrance, and belief, and herein fully }  
 and at large declare: Did, or did not, the said William Jefferys }  
 in the last interrogatory named, at or about the first day of Oc- }  
 tober, one thousand seven hundred and ninety-one, or at any other }  
 and what time appear to be, or act or practise in any respect as an }  
 attorney

First interroga-  
tory.

Second interro-  
gatory.

Third interro-  
gatory.

attorney or solicitor; and did you, or did you not, at the time last above mentioned, or at any other and what time, and in any and what way, permit and suffer your name as being an attorney of this honourable court, or as being an attorney or solicitor of any and what other court of law or equity, to be made use of by or upon the account, or for the use or profit of the said William Jefferys, and was the same in anywise so used by the said William Jefferys; and did you, or did you not, on or about the first day of October, one thousand seven hundred and ninety-one, or at any other and what time send any process issuing out of this honourable court to the said William Jefferys, thereby to enable him to appear, act, or practise as an attorney or solicitor; and more especially did you, or did you not, at or about the time last above mentioned, or at any other and what time send to the said William Jefferys a certain writ of *latitat* issuing out of and under the seal of this honourable court against one Christopher Fisher, at the suit of one Samuel Sherwood, tested the thirtieth day of July last, and returnable the seventh day of November last, or any other and what writ of *latitat*, or any other process issuing out of, or under the seal of this honourable court, or of any other and what court against the said Christopher Fisher, at the suit of the said Samuel Sherwood, and if yea, did you, or did you not, know that the said William Jefferys was not duly qualified to appear, act, or practise as an attorney or solicitor at the time when you so sent to him the said *latitat* or process, set forth according to the best of your knowledge, information, remembrance, and belief, and herein fully and at large declare: Did you, or did you not, <sup>Fourth interro-</sup> after the commencement of the said suit in the last interrogatory <sup>gatory.</sup> mentioned, make out and send to the said William Jefferys a paper writing, dated the first day of October, one thousand seven hundred and ninety-one, purporting to be an account of the debt and costs in the said action to the effect following, to wit, P. S. should Fisher be inclined to settle you, have account of debt and costs on the other sheet, inserting the charge for service of writ according to distance, and adding your own charge, and have added an authority for you to receive it for me, Sherwood and Fisher; warrant and instructions to sue, four shillings and fourpence; *latitat*, twelve shillings and sixpence; copy and service, five shillings; accommodation fee, six shillings and eightpence; letters, &c. two shillings; costs, one pound ten shillings and sixpence; debt, seven pounds nine shillings and sixpence—nine pounds. Mr. Jefferys, I do hereby authorize and empower you to receive the debt and costs in the above action for my use, T. Pellatt; plaintiff's attorney, the first of December 1791; Mr. Jefferys, Fair-row, Chatham; William Smith, clerk to Mr. Abbot, or to what other effect was the said writing; and in that paper writing were not the words, and "adding your own charge," struck out of the same with your privity, after the same had been sent and delivered to the said William Jefferys, and when and for what true reason herein fully declare: Did you re- <sup>Fifth interroga-</sup>ceive <sup>tory.</sup>

## INTERROGATORIES.-

Sixth interro-  
gatory.

ceive any instructions for issuing and sending to the said William Jefferys the writ in the third interrogatory mentioned, and from whom and in what manner were the same received by you, whether by parol or in writing, and if in writing, what are the contents of such writing set forth, and declare to the best of your knowledge, recollection, or belief: Did the said William Jefferys at any time and when make any overture, proposal, or application to you in person, or by letter, or letters, and if by letter, where are or is those letters, or how otherwise for your leave, permission, or consent, to solicit, negotiate, or transact, or to cause or procure to be solicited, negotiated, or transacted, any and what kind of business in or under the sanction, cover, or protection of your name, and what was the nature, tenor, effect, and true meaning of such proposals, and what was the inducement, consideration, or promise offered, suggested, or insinuated, by or on the behalf of the said William Jefferys, to or for you to yield or give such leave, permission, or consent, and did you thereupon, or at any other and what time in particular, in consideration of such inducement or promise, suggestion or insinuation, or from what other inducement or promise, suggestion or insinuation, give any such or what consent, leave, or permission, as and for the purposes aforesaid, or for what other purpose, or to what other extent, declare herein fully to the best of your recollection, knowledge, or belief: Did, or did not, the said William Jefferys at some and what time, in particular inform you that he was not an attorney at law, but wished or intended to become one, and request or propose to you to act as an attorney at law or solicitor, or which in all such suits at law or in equity, or which as he should be employed in and should recommend to be sued and prosecuted in your name until he the said William Jefferys should be admitted an attorney at law; and did, or did you not, assent and agree in substance and effect, or how otherwise, to and with such proposal and request; and was it, agreed or understood between you and the said William Jefferys at the time when the same proposal and request were made and assented to as aforesaid, or at any other and what time in particular, that as a consideration or inducement for such assent and agreement on your part to such proposal, you should be employed as the agent, or how otherwise, for the said William Jefferys when he should be admitted an attorney at law, set forth and declare to the best of your knowledge, recollection, or belief: Since such request and proposal, by or on the behalf of the said William Jefferys as is particularly mentioned and interrogated to in the last interrogatory, has, or has not, your name been made use of with your privity and consent, at any and what time, or times in particular, in any and what suit or suits in particular at law or in equity, by the solicitation, procurement, or intervention of the said William Jefferys: Did you personally know the plaintiff or plaintiffs, defendant or defendants, or any and which of them in the said suits in which your name was used as the attorney therein as aforesaid,

Seventh interro-  
gatory.Eighth interro-  
gatory.

when

when such suits or any of them were instituted; and was you not first made acquainted with all, or which of them, through the introduction of the said William Jefferys; and in particular was you not applied to by the said William Jefferys to sue out a bailable writ of *latitat* for one Jacob Cazeneuve Troy, against one John Barney, whereupon the said John Barney might be held to bail for a sum of money to a bailable amount; and did you not accordingly sue out such bailable *latitat* and send the same to the said William Jefferys to get the same executed; and did he not procure the same to be executed, and receive your costs as attorney in the said suit for the same with your privy; and did you at any time before, or at or after the said writ was sued out and the said arrest made, till the said costs were paid, personally know the said Jacob Cazeneuve Troy, or where he resided, or have you any and what reason to believe that he had, during the time aforesaid, any personal knowledge of you, or meant or intended to employ you as his attorney in the said cause; and did you not then know, or had you not reason to believe, that the said Jacob Cazeneuve Troy, at the time of his authorizing the said suit to be instituted, and till the same was ended, considered, and believed, the said William Jefferys to be the attorney in the said suit; and have you any and what reason to believe that you should have been applied to and employed by all or any of the said plaintiffs or defendants to become or act as their attorney in such suits, or any of them, if you had not been applied to for that purpose by the said William Jefferys, set forth according to the best of your recollection, information, knowledge, and belief: Is it your constant or usual practice as attorney at law, when you have as such attorney at law sued out process from any of his majesty's courts of record at Westminster, in any action or suit therein instituted against any person or persons residing in the country at a distance from the same, and where it is necessary or usual with you to employ agents in the country to act for you in any act or proceeding in the said suit to employ as such agent's attorneys at law, or to employ other persons therein who you know not to be attorneys at law, declare to the best of your knowledge, recollection, or belief: Set forth particularly, according to the best of your know- Ninth interro-  
gatory.

ledge, recollection, or belief, the number of causes in which your name has been used as attorney at law, and the names thereof, and particularly of the parties for whom you appear therein to have acted as attorney, by or under the solicitation, procuration, recommendation, introduction, agency, or intervention of the said William Jefferys; and the particular bills of costs and charges which you have made out and received in each particular cause, and when and by whom paid, and when and in what manner received, and whether paid to you or to any, and what other persons or person to your use, and particularly such sum and sums of money as have been paid to you by or on account of the said William Jefferys, for or on account of the costs in all or any of the said causes or suits, and such sums, allowance, or payments made by you to him, or by him deducted or retained to his use with your Tenth interro-  
gatory.

# INTERROGATORIES—

privity for or on account of any, and what thing done by him, in, about, or concerning all or any of the said causes or suits set forth, according to the best of your knowledge, information, recollection, and belief, and herein fully and at large declare.

W. GARROW.

King's Bench, Hilary Term, 32. Geo. III.

(a) Examination and answer to interrogatories exhibited against an attorney for malpractice, for practising without a licence in another person's name, not being admitted.

THE KING } ENGLAND. The examination and answer of William Jefferys to certain interrogatories exhibited against him in his majesty's court of king's bench at Westminster for a contempt supposed to be by him committed against the said court. To the first interrogatory this examinant answereth and saith, that he this examinant was never before any person whatsoever examined, sworn, and admitted to act as an attorney or solicitor in any court of law or equity: This examinant did not ever assume, or appear to be, or act or practice as or in the office or business of an attorney or solicitor, otherwise than as an articled clerk to James Read, attorney at law, herein after mentioned, either alone, or in conjunction with, or by the assistance or connivance of any sworn attorney or solicitor whatsoever, otherwise than by this examinant's incautiously publishing cards hereinafter mentioned: 'This examinant denies that he this examinant did ever so act or practice in conjunction with or by the assistance or connivance of Thomas Pellatt, against whom together with this examinant the attachment of this honourable court has issued, and which said Thomas Pellatt is admitted an attorney of this honourable court, as he this examinant has been informed, and verily believes. To the second interrogatory this examinant answereth and saith, that he this examinant did some time in or about the month of March 1791, at the request and by and with the permission of James Read, then an attorney of this honourable court, as this examinant verily believes, and to whom he this examinant was then an articled clerk, live and reside in a certain messuage or dwelling-house, with the appurtenances, in the town of Chatham, in the county of Kent, in a certain street or row there, called or known by the name or description of Fair Row, and which the said James Read held as tenant to one Guy, the owner thereof, and for about seven months previous to the said time had let out several rooms thereof to persons at low rents, reserving the offices in the said house for the purpose of conducting his business there; and this examinant did live and reside in such said messuage or dwelling-house at the request of the said James Read, in order that he this examinant might be enabled to answer the enquiries of the clients of the said James Read, and to conduct the business of the said James Read there as his clerk, and for which said messuage or dwelling-house the said James Read did then and has since paid the rent, as the said James Read informed

(a) The interrogatories are framed upon the subject of the answers in the manner of the preceding form—which will answer for almost all the common instances for mal practice---the interrogatories being too long for insertion.

this

this examinant : This examinant positively denies that he this examinant did ever insinuate, give out, or pretend, or cause, or procure to be given out, insinuated, or pretended that he this examinant had become the successor to the said James Read in the said business or profession of an attorney : That in or about the month of March 1791, the said James Read being indebted to this examinant in a sum of money which the said James Read, as this examinant believes, was unable to pay, as from repeated applications to the said James Read this examinant could not obtain the same, did give leave and permission to this examinant to prepare and execute such conveyancing business as the particular friends of this examinant should call upon him to do, and for this examinant to receive the profits thereof in or towards satisfaction of such money so owing to this examinant as aforesaid ; and in consequence of such permission he this examinant did incautiously, and without the knowledge of the said James Read, cause some cards to be printed to the following effect, “ that is to say,” Mr. Jefferys, attorney at law, Fair Row, Chatham ;” and this examinant did give a few of such cards to some of this examinant’s particular friends, but on the said James Read’s informing this examinant that he this examinant had done wrong, he this examinant discontinued to deliver any more : The reason why he this examinant styled himself upon such cards attorney at law was, that the preparing and executing conveyances was in general understood by this examinant’s friends and the inhabitants in general to be the business of an attorney only, and that he this examinant might not be considered as disqualified to transact such conveyancing business ; but notwithstanding which this examinant still continued to transact the business and affairs of the said James Read as his clerk, until the expiration of this examinant’s clerkship : That some time in or about the month of March 1791, the name of the said James Read was erased from the door of the house in consequence of the said house being new painted, and that soon after the name of “ Jefferys” only was placed upon the door thereof ; but this examinant did not order this examinant’s said name to be placed thereon, as the successor of the said James Read : This examinant did deliver to a few of this examinant’s particular friends in or about the town of Chatham a few of the said printed cards, and no other printed or written cards, letters, or hand bills whatsoever, alledging, intimating, suggesting, or insinuating that this examinant has become, or was qualified, or enabled to practice as an attorney or solicitor : This examinant does not recollect that he this examinant did deliver such printed card to the said Samuel Sherwood, but admits that the same might possibly come to his knowledge : This examinant was some time, in or about the month of June 1791, applied to by the said Samuel Sherwood to become or be employed by or for him in or about the recovery of a certain sum of money due to him from one Christopher Fisher, and this examinant did thereupon undertake at the request of the said Samuel Sherwood to write a letter to the said Christopher Fisher,

## INTERROGATORIES—

requesting payment of the said debt: This examinant believes that he this examinant might in the course of the conversation which took place inform the said Thomas Sherwood that he this examinant had done business for the said Mr. Troy and other gentlemen in Chatham aforesaid, but not as an attorney; that afterwards the said Samuel Sherwood informed this examinant that the said Christopher Fisher had not paid the debt agreeable to the request of the said letter, the said Samuel Sherwood thereupon requested this examinant to commence an action against Fisher for the recovery of the debt; and this examinant thereupon informed the said Samuel Sherwood that it was not in this examinant's power to bring any action, he this examinant not being an attorney; and this examinant did also inform the said Samuel Sherwood that this examinant had a friend (Mr. Pellatt), an attorney in London, to whom he this examinant would recommend the said Samuel Sherwood as an attorney, to bring an action against the said Christopher Fisher, and if the said Samuel Sherwood would sign an authority to Mr. Pellatt for that purpose, he this examinant would prepare one, which this examinant accordingly did a few days afterwards, at the request of the said Samuel Sherwood, which the said Samuel Sherwood did then read and sign; and this examinant did then, at the request of the said Samuel Sherwood, send the same to the said Mr. Pellatt: This examinant did not produce to the said Samuel Sherwood for his signature any paper writing prepared by this examinant or any other person whatsoever, purporting to be a warrant or authority for this examinant to sue or be employed in recovering from the said Christopher Fisher the money so due to the said Samuel Sherwood as aforesaid, or to secure to this examinant such costs and expences as might be incurred upon that occasion, nor did the said Samuel Sherwood sign and deliver to this examinant any other paper writing whatsoever, save and except the said paper writing purporting to be an authority for the said Thomas Pellatt to bring the said action against the said Christopher Fisher: This examinant did accordingly send the said warrant to the said Thomas Pellatt, and informed him that if he would send a writ agreeable to such warrant, he this examinant would serve the same; and on or about the second day of October 1791, this examinant did receive from the said Thomas Pellatt a letter enclosing a writ of *latitat* under the seal of this honourable court against the said Christopher Fisher, at the suit of the said Samuel Sherwood, for the purpose of recovering and compelling payment of the said money so due as aforesaid; the said Thomas Pellatt at the time of his suing out and sending such writ did not know the said Samuel Sherwood, to the best of this examinant's knowledge and belief: This examinant at the time of sending the said warrant and of receiving the said writ from the said Thomas Pellatt was clerk to, and in the service of the said James Read; the said Thomas Pellatt sent the said writ to this examinant for the purpose of serving a copy of the same on the said C. Fisher; the said J. Read did not at  
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that time know that such writ was ordered by or sent to this examinant, or of the purpose for which such writ was sent, as this examinant verily believes; the said Thomas Pellatt was not employed by or on behalf of the said James Read as his agent in London, in and about the doing and transacting, or assisting in the business of the said James Read as an attorney at law, at the time of sending the said warrant and receiving the said writ from the said Thomas Pellatt, to the best of this examinant's knowledge and belief; but the said Thomas Pellatt had some time previous thereto been such agent to the said James Read, but had then declined, as this examinant had been informed and believes: This examinant did deliver and serve upon the said Christopher Fisher a printed copy of the said writ of *latitat* filled up in this examinant's own hand-writing, and purporting to be a copy of the said writ of *latitat* against him the said Christopher Fisher at the suit of the said S. Sherwood; that sometime on or about the time when he this examinant so served the copy of the said writ of *latitat* on the said Christopher Fisher, he this examinant informed the said Samuel Sherwood of the receipt and service thereof, and that the said Thomas Pellatt had sent an account of the debt and costs in such action, and had thereby authorized this examinant to receive the same for the use of the said Thomas Pellatt, provided the said Christopher Fisher should apply and be willing to pay the same; this examinant believes that the said Christopher Fisher did call upon and apply to the said S. Sherwood to settle, accommodate, and end the said action and suit, and that the said Christopher Fisher was referred to this examinant by the said Samuel Sherwood, as being authorized by the said Thomas Pellatt to receive the debt and costs for the use of the said Thomas Pellatt: This examinant doth not recollect that the said Christopher Fisher did inform this examinant that he had made such application to the said Samuel Sherwood, and that he had been referred to this examinant for the purpose aforesaid: This examinant saith that the said Christopher Fisher did apply to this examinant to know the amount of the debt and costs, and this examinant did then produce to the said Christopher Fisher the letter this examinant received from the said Thomas Pellatt enclosing the said writ of *latitat*, and pointing out to the said Christopher Fisher the said Thomas Pellatt as the attorney in the cause, and his residence as indorsed on the back of the writ, as this examinant had also done on the service of the copy of the said writ, and in which letter was written a bill of the debt and costs in the hand writing of the said Thomas Pellatt, with an authority for this examinant to receive the same for the use of the said Thomas Pellatt; and this examinant did then inform the said Christopher Fisher that this examinant was not employed as the attorney in the said cause; but that he this examinant would receive the said debt and costs agreeable to the authority of the said Thomas Pellatt, or that the said Christopher Fisher might pay the same to the said Thomas Pellatt in London; the said bill of costs was not made

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out in the hand-writing or in the name of this examinant, except filling up a blank with the sum of five shillings, and the total amount of the bill: This examinant says, that the items in the said bill were, warrant and instructions to sue, four shillings and fourpence; *latitat*, twelve shillings and sixpence; copy and service, five shillings; accommodation fee, six shillings and eightpence; letters, two shillings, amounting in the whole to the sum of one pound ten shillings and sixpence: This examinant also says, that the whole of such items charged in the said bill or account were not, nor was any or either of them meant or intended to be received by this examinant, to or for this examinant's own proper use, and that the whole of the said costs mentioned in the said bill was meant and intended to be received for the sole use of the said Thomas Pellatt: This examinant did inform the said Christopher Fisher that the amount of the said debt was seven pounds nine shillings and sixpence, and that the debt and costs together came to nine pounds, as mentioned in such bill; this examinant did then inform the said Christopher Fisher that he this examinant did then expect to be paid the sum of three shillings and sixpence for this examinant's application to the said Christopher Fisher, requesting the payment of the said debt as aforesaid previous to the said action being brought; to the best of this examinant's knowledge and belief the said Samuel Sherwood was not in any respect acquainted with or had he ever seen or corresponded, or been in any wise connected with the above named Thomas Pellatt previous to the said first day of October 1, 1715, except by the said Samuel Sherwood executing such authority as aforesaid, or except that the wife of the said Samuel Sherwood had formerly been acquainted with the said Thomas Pellatt as this examinant has been informed and believes: This examinant believes that the said Thomas Pellatt was first introduced to and known by the said S. Sherwood sometime in or about the beginning of the month of November last past, when the said Thomas Pellatt, being at that time on a visit at Chatham, he this examinant did then accompany the said Thomas Pellatt to the house of the said Samuel Sherwood, when the said Thomas Pellatt conversed with the said Samuel Sherwood as his attorney concerning the said action against Fisher; the said Thomas Pellatt was not so introduced as being, nor was he at such the time of his said introduction understood by the said Samuel Sherwood, as this examinant believes, to be an agent to this examinant, or a person who permitted or suffered his name to be made use of upon the account or for the profit of this examinant, but the said Thomas Pellatt was introduced by this examinant to the said Samuel Sherwood as the attorney of the said Samuel Sherwood; and that the said Samuel Sherwood, as this examinant believes, did consider the said Thomas Pellatt as his attorney, and in respect to this examinant in no other light than as the friend and acquaintance of this examinant: This examinant denies that the said Thomas Pellatt did ever permit and suffer this examinant to use the name of him  
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the said Thomas Pellatt upon any occasion whatsoever in order to enable this examinant to carry on business as an attorney or solicitor. To the third interrogatory this examinant answereth and saith, that he this examinant has heard and believes that the said James Read heretofore of the town of Chatham aforesaid but now of Rochester in the said county of Kent, for some years previous to Hilary term 1791, was a sworn attorney of this honourable court, and of the court of common pleas, and also a solicitor of the court of chancery; this examinant has also heard and believes that the said James Read did cease or discontinue to renew his licence or certificate required by a late act of parliament to be annually taken out by attornies or solicitors in or about Hilary term 1791, but continued to retain and employ this examinant in his business and affairs as his clerk and in his service; that some time in or about the month of January 1791, to the best of this examinant's recollection and belief, he this examinant did mention to the said James Read this examinant's suspicions that the omission or neglect of the said James Read to take out or renew such licence or certificate might affect the services of this examinant as clerk to the said James Read, and prevent this examinant's admission as an attorney; and he this examinant did thereupon request the said James Read to take out and renew such licence or certificate; the said James Read then informed this examinant that he did not mean to renew such licence or certificate unless business of some importance in the common law should offer itself, as it was that kind of business he wished to avoid as much as possible, and to confine himself to the conveyancing business only, and that this examinant might not be uneasy on that account as it would not affect or prevent the admission of this examinant as an attorney on the expiration of this examinant's clerkship; and thereupon this examinant continued to act as the clerk of the said James Read; but this examinant does not recollect that he this examinant did ever request the said James Read to permit and suffer this examinant to act or practice as an attorney or solicitor in the name of the said James Read, otherwise than as the clerk to the said J. Read: This examinant says, that sometime in or about the month of April 1791, this examinant then being employed to prepare an assignment of certain premises in Chatham against the then or then late owner, whereof a judgment was entered up in this honourable court at the suit of John Simmons, which affected the said premises; and William J'Anson then being concerned on behalf of the purchaser requiring that satisfaction should be entered on the said judgment previous to the execution of the said assignment; this examinant did then request the said James Read to sign an undertaking that satisfaction should be entered as aforesaid, which the said James Read refused to do, alledging the want of such certificate, whereupon this examinant did then propose to the said James Read that he this examinant would pay for such certificate, provided the said James Read would renew such certificate and sign such undertaking, which the said James Read refused

fufed to do : This examinant did in or about the month of March 1791 apply to the faid Thomas Pellatt who is a relation to the wife of the faid James Read, and mentioned to the faid Thomas Pellatt the omission of the faid James Read to renew fuch licence and praftice common law, did request the faid Thomas Pellatt to tranfact fuch bufinefs as an attorney, as the friends of this examinant might apply to this examinant to do, he this examinant not being an attorney (this examinant's clerkfhip being then nearly expired), and which this examinant might recommend to the faid Thomas Pellatt in order to retain fuch friends ; this examinant did not obtain from the faid Thomas Pellatt any leave, permiffion, or confent whatfoever that the name of the faid Thomas Pellatt might be made ufe of upon the account of or for the profit of this examinant either folely or jointly with the faid Thomas Pellatt, or to fend this examinant any procefs iffuing out of or from this honourable court, or any other court whatfoever, whereby to enable this examinant to appear, aft, or praftice as an attorney or folicitor : This examinant to the beft of his remembrance and belief did not make, or caufe, or procure to be made any other application to the faid Thomas Pellatt for any permiffion to ufe the name of the faid Thomas Pellatt in or about the bufinefs or praftice of an attorney or folicitor, otherwife than in recommending fuch friends as aforefaid : This examinant was not permitted or fuffered in any manner, or for any purpofes whatfoever, or upon any terms or conditions, to ufe the fame, other than in recommendation of this examinant's friends to employ the faid Thomas Pellatt as their attorney : This examinant fays, that the profits of any fuch bufinefs fo recommended by this examinant to the faid Thomas Pellatt were to be received by the faid Thomas Pellatt folely, and for his ufe : This examinant fays, that he this examinant did recommend feveral of this examinant's friends to employ the faid Thomas Pellatt as an attorney, at the fame time mentioning this examinant's incapacity to aft as an attorney, he this examinant not being admitted in order to retain them, and that this examinant might be employed by them when admitted, this examinant's clerkfhip being then nearly expired ; and thereupon the faid Thomas Pellatt became the attorney to fuch perfons. To the fourth interrogatory this examinant anfwereth and faith, that he admits that a number (but what number this examinant cannot recollect) of printed cards, fimilar to the printed card produced and fhewn to this examinant at the time of his examination, were printed by the direction of this examinant, and fome few of them difperfed to this examinant's friends, but that the greater part of fuch printed cards now remain in this examinant's poffeffion, he this examinant having forbore to deliver the fame, being informed by the faid James Read that he had done wrong : This examinant fays, that fuch cards were not printed and difperfed for the purpofe of notifying, circulating, or fuggetting that this examinant had become and was, or that he this examinant was duly qualified to appear, and be, and to aft as an attorney and folicitor ; but that this examinant's

aminant's reason and purpose for putting his name as an attorney at law on such cards was, that the preparing and executing conveyances, which this examinant had the leave and permission of the said James Read to do, and to receive the profits thereof towards the payment of a sum of money due from the said James Read to this examinant as aforesaid, was in general understood by this examinant's friends and the inhabitants in general to be the business of an attorney only, and that this examinant might not be considered as disqualified to transact such conveyancing business: This examinant admits that he this examinant did acknowledge to several persons that the same was this examinant's card; and this examinant says, that to the best of this examinant's remembrance he this examinant was asked by Mr. John Smerdon and Mr. William J'Anson, or one of them, on or about the fifteenth day of April 1791, whether he this examinant was admitted to be or act as an attorney, or to that or the like effect; this examinant believes that he this examinant did reply, acknowledge, aver, and declare to the said Mr. John Smerdon and Mr. William J'Anson, or one of them, at the time last above-mentioned, that he this examinant was not an attorney; but this examinant having about that time met the said John Smerdon (as clerk to John Simmons), and the said William J'Anson concerning the execution of an assignment in which this examinant, as also the said John Simmons and William J'Anson were concerned, he this examinant, in respect of that business, on signing this examinant's name, being requested by the said William J'Anson and John Smerdon, or one of them, to add attorney or clerk to the said James Read thereto, this examinant refused, knowing the intentions of the said William J'Anson and John Smerdon to entangle this examinant in the committing an offence by adding attorney to this examinant's name, and did to the best of this examinant's recollection then declare, that he this examinant was not concerned therein as an attorney or an attorney's clerk; and this examinant believes that he this examinant did thereupon inform the said John Smerdon and William J'Anson, or one of them, that in respect of a judgment affecting the premises mentioned in the said assignment which the said William J'Anson requested on the behalf of the purchasers of the premises, for whom the said William J'Anson was concerned, might be discharged, he this examinant did inform them, or one of them, in order to prevent any objection concerning such judgment, and to prevent the delay of the execution of such assignment, that this examinant would find means that such judgment should be discharged; but to the best of this examinant's recollection and belief, he this examinant did not say that he this examinant would find means to practice as an attorney otherwise than that such judgment should be discharged as aforesaid; but this examinant says, that some altercation having taken place between this examinant and the said William J'Anson, he this examinant was provoked to say that he this examinant had a right to assume any character he this examinant pleased, as well as he

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(meaning the said William J'Anson, and alluding to the said William J'Anson's having, as this examinant understood, acted a certain character in a play in the barracks at Chatham). To the fifth interrogatory this examinant answereth and saith, that he this examinant did not, to the best of this examinant's remembrance and belief, ever, upon any occasion, or for any purpose whatsoever, represent, declare, or insinuate to the said Samuel Sherwood, or to any other person or persons whatsoever, that he this examinant had been employed by, or acted for divers persons in divers suits and businesses, except business and matters of conveyancing, and recommending such friends to employ the said Thomas Pellatt as their attorney: This examinant did not represent, declare, or insinuate to the said Samuel Sherwood, or to any other person whatsoever, to the best of this examinant's remembrance or belief, that he this examinant had been so employed by one Jacob Cazeneuve Troy of Chatham aforesaid, wine merchant, except as aforesaid; and this examinant denies that he this examinant was ever at any time, or in any manner whatsoever on his this examinant's own account, except as aforesaid employed by, or did he this examinant ever, or in any manner act for the said Jacob Cazeneuve Troy, or for any other person or persons whatsoever in or about, or touching or concerning any suits or businesses, excepting the recommending the said Jacob Cazeneuve Troy and other persons to employ the said Thomas Pellatt as their attorney, and also except the conveyancing business as aforesaid, and as herein after mentioned; this examinant was not employed by, nor did he this examinant act for the said Jacob Cazeneuve Troy, in or about the recovery of any debt or sum of money due to the said Jacob Cazeneuve Troy from the said John Barney, of Hoo in the said county of Kent, nor from any other person or persons whatsoever, except by recommending the said Thomas Pellatt to be employed by the said Jacob Cazeneuve Troy, as his attorney, and whom the said Jacob Cazeneuve Troy before knew, except as hereinafter mentioned: This examinant says, that the said Jacob Cazeneuve Troy did apply to this examinant to commence an action against the said John Barney for the recovery of a debt, when this examinant informed the said Jacob Cazeneuve Troy, as this examinant had before done, that this examinant was not in a capacity to do so, and recommended the said Thomas Pellatt as aforesaid; but this examinant denies that the said Jacob Cazeneuve Troy did give this examinant any authority, directions, or instructions to sue, or in any other manner whatsoever to act towards or respecting the said John Barney, otherwise than as aforesaid, and as hereinafter mentioned; the said John Barney was sued by the said Thomas Pellatt for the recovery of a debt or sum of money due to the said Jacob Cazeneuve Troy, and as he this examinant has been informed and believes, a writ of *latitat* or some other process did issue from this honourable court against the said John Barney, at the suit of the said Jacob Cazeneuve Troy, and that the said writ was bailable: This examinant says, that on

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the application of the said Jacob Cazeneuve Troy to this examinant to recover the said debt, he this examinant wrote a letter to the said Thomas Pellatt, informing him of such application, and requesting his attendance on the said Jacob Cazeneuve Troy, and to receive instructions, and to do what was necessary for the recovery of the said debt, when this examinant received a letter from the clerk, or person who transacted the business of the said Thomas Pellatt in his absence, informing this examinant that the said Thomas Pellatt was at Ramsgate, or he would have attended, and requesting this examinant to prepare an affidavit of the debt for the said Thomas Pellatt, and to desire the said Jacob Cazeneuve Troy to swear to the same before a commissioner, which said affidavit he this examinant did accordingly prepare, and left the same with the said Jacob Cazeneuve Troy, informing him of the reason why the said Thomas Pellatt did not attend, and that it was necessary he should swear to the same as aforesaid, which said affidavit the said Jacob Cazeneuve Troy returned to this examinant sworn, and which this examinant sent to the clerk of the said Thomas Pellatt as aforesaid, and that thereupon such writ or process did issue: This examinant has been informed, and believes that the said John Barney was arrested and held to bail for the said debt; the sheriff's warrant for that purpose was sent to this examinant, and this examinant did receive the same by letter from the said clerk of the said Thomas Pellatt, and thereupon he this examinant did give the same to Edmund Baker, a bailiff or officer of the sheriff of Kent, at the same time producing to such officer the letter enclosing the said warrant, and informing him how this examinant became possessed of the same, and desired him to execute the same for the said Thomas Pellatt: This examinant says, that the said action against the said John Barney, at the suit of the said Jacob Cazeneuve Troy, is not now subsisting and depending, but that sometime in November last the same was accommodated and settled by the said Thomas Pellatt and Edmund Baker in this examinant's presence, and that the said Thomas Pellatt informed the said said Jacob Cazeneuve Troy that he had received from the said Edmund Baker a cheque on the bank for a sum of money in which the debt and costs of the action against the said John Barney were included, and that being then in a hurry to leave Chatham he would leave the amount of the debt in the hands of this examinant if the said Jacob Cazeneuve Troy approved of the same, which the said Jacob Cazeneuve Troy did; and that he this examinant on the same day did pay the amount of the said debt to the said Jacob Cazeneuve Troy, and took a receipt for the said Thomas Pellatt for the same; but this examinant positively denies that he this examinant did derive any benefit or advantage whatsoever to himself from the proceedings which had been taken against the said John Barney touching or concerning the said debt. To the sixth interrogatory this examinant answereth and saith, that the said Thomas Pellatt, who is an attorney of this honourable court, was not ever employed by or for this examinant in

or about the instituting, prosecuting, or defending any actions or suits whatsoever, at law or in equity, nor did he this examinant ever, or at any time instruct or direct, or cause, or procure, or prevail on the said Thomas Pellatt to commence, prosecute, or defend any actions or suits at law or in equity whatsoever, otherwise than by recommending the said Thomas Pellatt to several of this examinant's friends to act as their attorney till such time as this examinant should be admitted, and in sending proper instructions to the said Thomas Pellatt, to enable the said Thomas Pellatt to commence any actions on behalf of this examinant's said friends, and all the costs and charges of any such actions and suits, if received by this examinant (the amount of which he this examinant cannot particularly recollect and set forth) he this examinant always paid or remitted to the said T. Pellatt: This examinant denies that he this examinant did ever receive any emolument or profit whatsoever from any business transacted by the said Thomas Pellatt through the recommendation of this examinant, and this examinant has not received, nor does he expect to receive any sum or sums of money from the said Thomas Pellatt in respect thereof, save and except such sums of money as he this examinant had been out of pocket, and actually paid on the account of the said Thomas Pellatt in such business. To the seventh interrogatory this examinant answereth and saith, that he this examinant, being employed in preparing an assignment in which the said William J. Anson and John Simmons were concerned, and the time allowed for the execution of the same being nearly expired, and a judgment affecting the said premises obtained in this honourable court by Simmons against Colvill, the then or late owner thereof, being requested by the said William J. Anson to be discharged, he this examinant, to prevent any suit at law or in equity arising concerning the said judgment, or the execution of the said assignment, the said William J. Anson informing this examinant, that if this examinant would sign an undertaking, that satisfaction should be entered on the said judgment within one month from the date thereof, according to the warrant of attorney executed by the said John Simmons for that purpose, the said William J. Anson would be satisfied, and admit the execution of such assignment on the behalf of the purchaser who did thereupon write and sign the paper writing now produced and shewn to this examinant at the time of the examination of him this examinant, and that afterwards this examinant did send to the said Thomas Pellatt such warrant executed by the said John Simmons as aforesaid, together with an authority from the said Edward Colvill, directed to and empowering the said Thomas Pellatt to follow the directions of such warrant, and to enter and acknowledge satisfaction on such judgment as aforesaid: That such warrant of attorney was prepared by this examinant at the request of the said Edward Colvill, John Hooker, and John Leith, or some or one of them, who were concerned in the assignment of such premises, and that such warrant of attorney, at the solicitation of this examinant, was executed

cuted by the said John Simmons, and this examinant believes that this examinant and John Smerdon the clerk of the said John Simmons attested the execution thereof: This examinant did receive the sum of fifteen shillings for the preparing and attending the execution of such warrant of attorney, as also fifteen shillings for the preparing and attending the execution of a certain other warrant of attorney, executed by the said John Simmons, for the purpose of entering such satisfaction as aforesaid, but which proved, as this examinant was informed, insufficient for the purpose: This examinant did charge in a certain bill in which such warrants were charged the sum of one pound and nineteen shillings, or thereabouts, as money paid by this examinant to the said Thomas Pellatt, on account of the said Edward Colvill, for entering and acknowledging satisfaction upon record on such judgment as aforesaid: This examinant did, to the best of this examinant's remembrance and belief, on or about the twenty-seventh day of M. 1791, mark on a certain bill made out by this examinant on the said J. H. and John Leith for the preparing such assignment, and for the money paid by this examinant to the said Thomas Pellatt as aforesaid, the date and initials of this examinant's name on being paid by the said John Leith a moiety of the amount of such bill, and no other. [These are all the parts of the answer material for the the form].

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AFTERWARDS, that is to say, on the day and at the place within-mentioned, before the right honourable Lloyd lord Kenyon, the chief justice within written, William Jones, esq. being associated unto the said chief justice by force of the statute in that case made and provided, come as well the within-named John Hankey as the within-named London Assurance by their respective attornies within mentioned, and the jurors of the jury whereof mention is within made being summoned, some of them, that is to say [Set out the names of the special jury who attended]; and because the residue of the jurors of the same jury do not appear, therefore other persons of those standing by the court by the sheriff of the county aforesaid, at the request of the said John Hankey, and by command of the said chief justice, are now newly set down, whose names are affixed in the within-written panel according to the form of the statute in such case made and provided; which said jurors so newly set down, that is to say, Edward Uttin, Henry Pollard, John Duncan, and William Kibble, being required, came, who together with the said other jurors before impanelled and sworn to declare the truth of the within-contents were elected, tried, and sworn, and after evidence being given to them of and upon the within-contents, went from the bar of this court to discourse of their verdict of and upon the pre-

*Place at the sitting at Westminster for defendant in an action of court where the cause had been four times made a remanet, and finally plaintiff withdrew the record before a special jury, and a tales where plaintiff did not appear.*

misses, and after the said jury had discoursed and agreed among themselves they came back to the said bar to give their verdict in this behalf, upon which the said John Hankey, being solemnly required, came not, nor did he further prosecute his said bill against the said London Assurance; therefore, &c.

*Postea* in dower on an issue whether the husband died seised or not, C. B.

AFTERWARDS, on the day and year, &c. (as before till) on their oath say that the within-named W. H. the former husband of the said C. on the day that he married the said C. and afterwards, was seised of the tenements within mentioned, with the appurtenances, whereof, &c. of such his estate as that the said C. could be endowed thereof: And the said jurors upon their said oath further say, that the said W. H. being so seised of such his estate of and in the tenements aforesaid, with the appurtenances, died so seised on , and that the tenements aforesaid, with the appurtenances, whereof, &c. are worth by the year in all issues beyond reprises        pounds, and the clear yearly value of the third part is        pounds in all issues beyond reprises; and the said jurors assess the damages of the said B. and C. by reason of the said J. detaining the dower of her the said C. over and besides the value aforesaid, and over and besides their costs and charges by him laid out about their suit in this behalf to        pounds, and for their said costs and charges to forty shillings; therefore, &c.

A continuance, *postea*, and final judgment thereof at the assizes.

As in the *jurata* of the record.

AFTERWARDS the proceedings therein are continued between the parties aforesaid of the plea aforesaid by the jury being respited between them before our lord the king at Westminster until , unless the king's justices assigned to hold the assizes in the county aforesaid shall first come on        at G. in the county aforesaid, according to the form of the statute, &c. for default of the jurors, because none of them did appear; at which day the said parties come before our said lord the king at Westminster by their said attornies (a), and the justices of assize before whom, &c. now lend here the record taken before them in these words, to wit, afterwards, &c. (to the end of the *postea*, and then go on in the same line as follows); therefore it is considered that the said J. T. recover against the said J. R. the damages aforesaid by the said jury in manner aforesaid assessed, and also        pounds adjudged to the said J. T. at his request by the said court of our said lord the king now here for the increase of his said costs and charges, which said damages in the whole amount to        pounds; and the said J. R. in mercy, &c.

(a) If the defendant had been returned by the *postea* to have made default, then the entry should have been,

the said J. T. comes, &c. by his said attornies.

*Postea* in debt on bond.

IF in debt on bond where the defendant has denied his debt, instead of saying, "and the said T. R. is in mercy, &c." it should have been, "and the said T. R. be taken, &c." And for-

merly the entry was the same in all cases where a breach of the peace was assessed, as in trespass, ejectment, assault, and false imprisonment. But the statute 5. Wm. and Mary, c. 12. having in their

these four last instances taken away the capiat and fine, and directed six shillings and eightpence to be paid on signing the final judgment, you must now in

these cases leave it out, and say no more than, which said damages amount in the whole to

AFTERWARDS, that is to say, on the day and year and at the place within mentioned, came as well the within-named G. C. and M. his wife as the within-named W. C. by their attornies within named before J. D. esquire, one of the justices of our lord the king appointed to hold pleas before the king himself, and J. D. esquire, one of his majesty's serjeants at law, his majesty's justices assigned to hold assizes for the within-written county of C. according, &c.; and the jurors of the jury whereof mention is within made summoned to be upon that jury being impanelled and drawn by ballot, according, &c. and called over, come, who to speak the truth of the matters within mentioned being tried and sworn, on their oath say, that as to the coming with force and arms, and every thing else which is against the peace of our said lord the king the said W. is guilty thereof in manner and form as the said G. M. have within complained against him: And the jury aforesaid on their oath further say, that the said W. of his own wrong, and without the cause by him in his plea within alleged, on the thirtieth day of , in the year within mentioned, at within mentioned, made an assault upon the said M. and then and there beat, wounded, and ill treated her, so that her life was despaired of, in manner and form as the said G. and M. have within complained against him; and they assess the damages of the said G. and M. by reason thereof, besides their costs and charges laid out by them about their suit in this behalf, to twenty-one pounds, and for their costs and charges to four pounds; therefore, &c.

*Postea at the assizes in tref ass and assault where for assault pleaded and nothing for plaintiff.*

AT which day before our lord the king at Westminster came the parties aforesaid by their attornies aforesaid, and the sheriff of S. did not return the said writ, nor did they do any thing thereupon; therefore let a jury come before our lord the king at Westminster on next after , who are in no wile of kin either to the said J. L. or to the said J. M. to take cognizance upon their oaths of the whole truth of the premises, because as well the said R. as the said J. have put themselves upon that jury; the same day is given to the parties aforesaid at the same place; at which day before our lord the king at Westminster come the parties aforesaid by their attornies aforesaid, and the said sheriffs of L. did not return the said writ, nor did they do any thing thereupon; therefore let a jury come before our lord the king at Westminster on next after , who are in no wile related to the said J. C. or the said R. M. to take cognizance upon their oath of the whole truth of the premises, because as well the said R. as the said J. have put themselves upon that jury; the same day is

*Postea, with continuances.*

## POSTEAS.

*As in postea.*

Verdict for  
plaintiff on  
statute of limi-  
tations.

given to the parties aforesaid at the same place; afterwards the process being continued between the parties of the plea aforesaid by the jury being respited between them before our lord the king at Westminster until next after , unless the king's right trusty and well beloved William lord Mansfield, his majesty's chief justice aforesaid, to hold pleas before the king himself, according, &c. shall first come on the day of at Guildhall, London, for default of jurors, because none of them did appear, and the said chief justice before whom, &c. sent hither his record had in these words, to wit, afterwards, that is to say, on the day and at the place within contained, before the right honourable W. earl of M. the king's chief justice within written, J. W. gentleman, being associated unto the said chief justice by force of the statute in, &c. the within-named J. L. plaintiff, came by his attorney within contained, and the within-named R. M. defendant, although solemnly required, came not, but made default, and the jurors of that jury being summoned came to say the truth of the within contents being chosen, tried, and sworn, say upon their oath that the within-named R. M. within six years next before the within-written day of exhibiting the within specified bill of the said J. L. in the within-written declaration specified undertook in manner and form as the said J. L. as within by replying alleged; and they assess the damages of the said J. L. by occasion of the not performing the within promises and undertakings, over and above his costs and charges by him about his suit in this behalf expended, to one hundred and seventeen pounds eight shillings and eightpence, and for their costs and charges to forty shillings; therefore it is considered that the said J. L. recover against the said R. M. his said damages by the said jury in form aforesaid assigned, and also twenty-one pounds eleven shillings and fourpence for his said costs and charges by the court of our said lord the king now here adjudged of increase to the said J. L. with his assent, which damages in the whole amount to one hundred and forty-one pounds; and the said R. in mercy, &c.

*Postea for plaintiff at the fittings in Middlesex. Case on promises.*

AFTERWARDS, that is to say, on the day and year and at the place within contained, before the right honourable William lord Mansfield, the king's chief justice within written, T. W. gentleman, being associated to the said chief justice by force of the statute in, &c. come as well the within-named R. H. as also the within-named R. J. by their attorneys within contained, and the jurors of that jury whereof mention is within made being drawn, &c. according, &c. and called over, likewise come and declare the truth of the matter within contained, and being chosen, tried, and sworn, upon their oath say, that the said R. J. did undertake and promise in manner and form as the said R. H. hath within complained against him; and they assess the damages of the said R. H. by occasion thereof, over and above his costs and charges by him about his suit in this behalf expended,

pended, to twenty pounds, and for their costs and charges to forty shillings; therefore it is considered that the said R. H. recover against the said R. J. the said damages by the said jury in form aforesaid assessed, and also

THE within-named A. M. came by her attorney within con- *Postea* in an ac-  
tained, and the within named J. M. although solemnly demanded, tion of debt  
came not, but made default; and the jurors of that jury whereof upon an arbi-  
mention is within mentioned being summoned, came to declare tration bond.  
the truth of the matter within mentioned, and being chosen, tried,  
and sworn, upon their oaths say, that the within-named R. W.  
and G. J. did make and execute their award in writing of and  
upon the premises within mentioned so referred to them as within  
mentioned under their hands and seals in manner and form as the  
said A. hath in her replication within in that behalf alleged; and  
they assess the damages of the said A. by occasion of the detaining  
the within-mentioned debt, over and above her costs and charges  
by her about her suit in this behalf expended to one shilling, and  
for her costs and charges to forty shillings.

AFTERWARDS, that is to say, at the day and place within *Postea* on several  
contained, before the right honourable William lord Mansfield, *assess, viz non*  
the king's chief justice within written, J. W. gentleman, being *assumpsit, non as-*  
associated to the said chief justice by force of, &c. come as well *sumpsit infra sex*  
the within-named J. L. as the within-named G. H. by their at- *annis, and set*  
tornies within contained; and the jurors of the jury whereof men- *out.*  
tion is within made being summoned come, who to declare the truth  
of the matters within contained being chosen, tried, and sworn,  
upon their oaths say, as to the first issue within joined between  
the parties, that the within-named G. F. did undertake and promise  
in manner and form as the within named J. L. hath within com-  
plained against him; and as to the second issue within joined be-  
tween the parties, that the within-named J. F. did within six years  
next before the exhibiting of the bill of the within-named J. L.  
undertake and promise in manner and form as the said J. L. hath  
within complained against him; and as to the said issue within joined  
between the parties, that the said J. was not nor is indebted to  
the said G. in manner and form as the said G. hath in his last plea  
within mentioned alleged; and they assess the damages of the  
said J. L. by occasion of the not performing the within-mentioned  
promises and undertakings, over and above his costs and charges  
by him about his suit in this behalf expended to sixty-one pounds  
nine shillings, and for those costs and charges to forty shillings;  
therefore, &c.

AFTERWARDS, that is to say, on the day and at the place *Postea* for the  
within mentioned, before Philip lord Hardwicke, the chief justice *defendant on a*  
*non suit at the*  
*sittings in London or Middlesex,*  
*within*

If plaintiff neglects to enter his judgment in two terms after verdict, and defendant should die, the whole proceedings are void by statute.

If a special jury, *this which is in Italic* is to be left out, and instead of it say only *being summoned and called over likewise come.*

within written, C. Carleton Hayward, gentleman, being associated to him according to the form of the statute, &c. as well the within named A. B. the plaintiff as the within written C. D. the defendant, by their attornies within mentioned, do come, and the jurors of the jury whereof mention is made in the within written record *being summoned and drawn by ballot according to the form of the statute, &c. likewise come,* and being elected, tried, and sworn to declare the truth of the issue within contained, departed from the bar here to consider of their verdict to be given thereupon, and they having considered and agreed thereof among themselves, returned to the bar here to give their said verdict; whereupon the said A. although solemnly demanded, cometh not, nor is his bill within written further prosecuted against the said C.; therefore, &c.

*Postea* for plaintiff by default.

AFTERWARDS, on the day and at the place within contained, before the right honourable William earl of Mansfield, the chief justice within mentioned, C. H. gentleman, being associated to him according to the form of the statute, &c. the within named A. B. cometh by his attorney within mentioned, and the within written C. D. although solemnly demanded, doth not come, but maketh default; therefore let the jury within mentioned be taken against him by default, and the jurors of the said jury *being summoned and drawn by ballot according to the form of the statute, &c. and called over, likewise come,* and being elected, tried, and sworn to speak the truth of the matters within contained, say upon their oath that the said C. did promise and undertake in manner and form as the said A. within complains against him, and they assess the damages of the said A. by reason of the not performing the promises and undertakings within mentioned, besides his costs and charges laid out by him about his suit in this behalf to , and for his said costs to ; therefore, &c.

*Postea* for the plaintiff by default, where he takes his verdict on one promise, and the other is found for defendant.

If a special jury, leave this out.

AFTERWARDS, that is to say, on the day and at the place within contained, before William earl of Mansfield, the chief justice within written, W. L. gentleman, being associated to him according to the form of the statute, &c. the within named L. L. comes by his attorney within mentioned, and the within named W. H. though solemnly demanded, comes not, but makes default; therefore let the jury within written be taken against him by defendant; and the jurors of that jury *being come, summoned, and drawn, according to the form of the statute, &c. likewise come,* and being elected, tried, and sworn to declare the truth of the issues within contained, as to the first promise and undertaking mentioned in the within declaration, upon their oaths say, that the said W. H. did promise and undertake in manner and form as the said L. hath within declared against him, and do assess the damages of the said L. occasioned by the not performing the said first

first promise and undertaking, besides his costs and charges laid out by him about his suit in this behalf to , and for his said costs and charges to ; and as to the second promise and undertaking in the within declaration mentioned, the said jurors further on their oath say, that the said W. H. did not promise and undertake in manner and form as the said L. hath within declared against him; therefore, &c.

*Settled by* SERJEANT DRAPER:

AFTERWARDS, that is to say, on the day, &c. [as before *Postea for the defendant on a verdict.*], as well the within named J. K. the plaintiff as the within written C. D. the defendant, by their attorneys within mentioned do come, and the jurors of the jury whereof mention is made in the within written record *being summoned and drawn, &c. as before*, likewise come, and being elected, tried, and sworn to declare the truth of the issue within contained, say upon their oath, that the said C. D. did not assume upon himself and promise in manner and form as the said J. K. hath within complained against him, as the said C. D. hath by his plea within alledged; therefore, &c.

AFTERWARDS, on the day and at the place within contained, before E. E. one of the barons of his majesty's court of exchequer, and Sir S. P. knight, one of his majesty's serjeants at law, justices of our lord the king appointed to hold the assizes for the county within written, according to the form of the Statute, &c. as well the within named A. R. as the within named J. B. by their attorneys within mentioned, do come, and the jurors of the jury whereof mention is within made being drawn by ballot, &c. as before, and being elected, tried, and sworn to speak the truth of the matters within contained, say upon their oath as to pounds, parcel of the within mentioned pounds in the last Count in the within declaration specified, that the said J. B. doth owe the same to the said A. in manner and form as the said A. within complains against him; and they assess the damages of the said A. by reason of the detaining of the debt within mentioned as to the said pounds, parcel of the said pounds over and above his costs and charges which he hath been put to about the suit in this behalf to one shilling, and for her said costs and charges to forty shillings; and as to the residue of the said pounds within mentioned, the said jurors say further on their said oath, that the said J. B. doth not owe the same to the said A. as the said J. B. by his within pleadings hath alledged; therefore, &c.

AFTERWARDS, viz. on the day and year and at the place within mentioned, come as well the within named J. M. as the *Postea for plaintiff, where defendant proved a set off, and a verdict was taken for the bail.* within

## JUDGMENTS.

within named R. G. by their attornies within named, before E. C. esquire, one of the barons of his majesty's court of exchequer, and sir S. B. knight, one of his majesty's serjeants at law, justices of our lord the king assigned to hold the assizes for the within written county of G. according to the form of the statute, &c. ; and the jurors of the jury whereof mention is made, summoned to be upon the jury, being impanelled and drawn by ballot, according to the form, &c. and called over come, who to speak the truth of the matters within contained being tried and sworn on their oath, say, that the said R. did undertake in manner and form as the said J. M. hath within complained against him, and they assess the damages of the said J. M. by reason of the premises, besides his costs and charges by him laid out and expended about his suit in this behalf, after having set off and deducted the sum of ten shillings for work and labour by the said R. for the said J. M. and for the hire of horses let to hire by the said R. for the said J. M. to pounds, and for his costs and charges to forty shillings ; therefore, &c.

*Posse for plain-  
tiff for part of a  
debt against an  
executor on  
plene administra-  
tion pleaded.*

[AS before till] on their oath say, that the within named B. at the time of exhibiting the within mentioned bill, had divers goods and chattels which were of the within mentioned E. at the time of his death to her hands to be administered to the value of pounds, parcel of the within mentioned debt, and they assess the damages of the said A. by reason of the detaining the said debt, besides his costs and charges about his suit in this behalf expended to one shilling, and for his costs and charges to forty shillings

## JUDGMENTS.

*Form of entering  
up a judgment  
on roll in case  
by nil dicit, and  
award of enquiry.*

AND the said Andrew and Elizabeth his wife, by T. Cox their attorney, come and defend the within writ of trespass and injury, when, &c. and say nothing in bar or preclusion of the action of the said Robert, whereby the said Robert remains against the said Andrew and Elizabeth his wife without defence, by reason whereof the said Robert ought to recover his damages against the said Andrew and Elizabeth his wife by occasion of the premises aforesaid; but because it is unknown what damages the said Robert hath sustained as well by occasion of the premises aforesaid, therefore the sheriff is commended, that by the oaths of good and lawful men he diligently enquire what damages the said Robert hath sustained as well by occasion of the premises aforesaid, as also for his costs and charges by him expended about his suit in this behalf, and that he remit the inquisition he shall make to the justices of our lord

lord the king at Westminster from the day of on  
under his seal and the seals of thote by whose oaths he took that  
inquisition.

CORNWALL, to wit. James Lakes, who was arrested at the suit of Theophilus Danbury, by virtue of a writ of our lord the king of *latitat* issuing out of the court of our lord the king at Westminster, and to the sheriff of Cornwall, directed and returnable there at Westminster before our lord the king on Tuesday next after one month of St. Michael, in the eighteenth year of the reign of our said lord the king, at which day the said James appeared by Samuel Thomas his attorney; and because the same Theophilus doth not further prosecute his said bill, therefore thirty-three shillings are adjudged to the said James for his costs and charges laid out by him in this behalf, according to the form of the statute, &c.; and the said Theophilus and his pledges of the prosecution, to wit, John Doe and Richard Roe, in mercy, &c. and the said James thereupon goes without a day, &c. *Non prof. for want of a declaration.*

AND the said J. by John Till his attorney, comes and defends the wrong and injury when, &c. and the said D. prays that the said J. may answer her said bill, whereupon the aforesaid attorney of the said J. says that he is not informed by the said J. of any answer to be given for the same J. to the above D. in the aforesaid suit, and says nothing else thereon in bar or preclusion of the said action of the said D. whereby the said D. remains against the said J. undefended therein, &c.; therefore it is considered that the aforesaid D. recover against the said J. her said debt, and also sixty-three shillings for her damages, which she hath sustained as well by reason of the detaining that debt as for her costs and charges laid out by her about her suit in this cause to the said D. by the court of our lord the king now here with her assent now adjudged; and the said J. in mercy, &c. *Judgment by non est informatus in debt.*

AND the said George, in his proper person, comes and defends the wrong and injury when, &c. and prays leave to imparl to the bill aforesaid of the said Joanna, and it is granted him, &c. and upon this a day is thereupon given to the parties aforesaid before our lord the king at Westminster until this same term, to wit, to the said George, to imparl to the bill aforesaid, and then to answer, &c.; at which day, before our lord the king at Westminster, comes the said Joanna by her attorney aforesaid; and the said George, although solemnly called, comes not, nor says any thing in bar or preclusion of the said action of the said Joanna, whereby the same Joanna remains against the said George undefended therein; therefore it is considered that the aforesaid Joanna do recover against the said George her debt aforesaid, and also *Judgment, nil dicit in debt in K. B.*

also eighty-three shillings for her damages which she hath sustained as well by reason of the detaining that debt as for her costs and charges laid out by her about her suit in that behalf adjudged to the said Joanna by the court of our said lord the king now here with her assent; and the said George in mercy, &c.

*Cognovit actionem*  
in case in K. B.  
withimparlance.

AND now here at this day, to wit, on \_\_\_\_\_, next after this same term, until which day the said Charles had leave to im-  
parl to the bill aforesaid, and then to answer, &c. before our lord the king at Westminster, comes as well the aforesaid George by his attorney aforesaid, as the said Charles in his proper person; and the said Charles defends the wrong and injury when, &c. and saith, that he the said Charles cannot deny the said action of the said George, nor but that he the said Charles did assume upon himself in manner and form as the said George hath above complained against him; nor but that he the said George hath sustained damage by reason of the not performing the said promises and assumptions by him the said Charles beyond his costs and charges laid out by the said George about his suit in this case to nine pounds eighteen shillings; therefore it is considered that the said George do recover against the said Charles the said nine pounds eighteen shillings for his damages aforesaid which he hath sustained by reason of the not performing of the said promises and assumptions beyond his costs and charges laid out by him about his suit in this cause, and for those costs and charges four pounds ten shillings, making together in the whole fourteen pounds eight shillings, adjudged to the said George by the court of our said lord the king now here with his assent; and the said Charles in mercy, &c.

**E.N.T.**

Judgment a-  
gainst the ca-  
sual ejector in  
ejectment, with  
a writ of enquiry  
awarded.

AND the said John Wrong, by Henry Foote his attorney, comes and defends the wrong and injury when, &c. and says nothing in bar or preclusion of the action of the aforesaid Richard Right, by which the said R. R. remains against the said John Wrong undefended therein; therefore it is considered that the aforesaid Richard Right do recover against the said John Wrong his term of and in two messuages, &c. with the appurtenances yet to come, and his damages by the occasion of the trespass and ejectment aforesaid; it is commanded that the sheriff, by the oath of twelve good and lawful men of his bailiwick, diligently enquire what damages the aforesaid R. R. hath sustained by occasion of the trespass and ejectment aforesaid, as for his costs and charges by him laid out about his suit in this behalf, and the inquisition which he shall cause to be made he make appear hereon from the under his seal and the seals of them by whom such inquisition shall be made; the same day is given to the aforesaid R. R. here, &c.; and upon this the aforesaid R. prays a writ of our lord the king to be delivered to the sheriff of the countv

aforesaid, to cause him to have possession of his term aforesaid of and in the tenements aforesaid, with the appurtenances as to it to come, and it is granted to him returnable before our said lord the king at Westminster on Wedne day next after \_\_\_\_\_, the same day is given to the parties aforesaid at the same place.

GLOUCESTER, to wit. C. D. was served (a) with a copy of a certain writ (b) of *alias capias* of his present majesty king George the Third, issuing out of the court of his said majesty before his said majesty at Westminster, directed to the sheriff of Gloucester, and returned before our lord the king at Westminster aforesaid on \_\_\_\_\_ next after \_\_\_\_\_ in Easter term now last past, to answer to A. B. in a plea of trespass (c); and the said C. the same day appeared by E. P. his attorney (d) at the suit of the said A. according to the statute in such case lately made and provided, and the said A. in the said court of our said lord the king before the king himself at Westminster, hath not declared in the said court by his bill or declaration in any personal action or ejectment against the said C. before the end of Trinity term then next ensuing, being the next term after the appearance of the said C. at the suit of the said A.; therefore it is considered that the said A. take nothing by his said writ, but that he be in mercy; and it is further considered that the said C. recover against the said A. thirty-three shillings for his costs and charges by him sustained about his defence in this behalf adjudged to the said C. by the court of our said lord the king now here, according to the form of the statute in such case lately made and provided, and that the said C. have execution thereof.

*Non prof. for want of a declaration in B. R.*

(a) or arrested, as the case is.

(b) a certain precept of

lord the king called a bill

Middlesex, issuing out of

court of our said lord the king be-

fore the king himself, and to

the sheriff of \_\_\_\_\_ directed.

(c) If there is *ac etiam insert*

it.

(d) If bailable, say, and put in special bail.

J. WALLACE.

GLOUCESTER, to wit. A. B. who brought his present majesty's writ against C. D. late of \_\_\_\_\_, in the county aforesaid, of a plea of trespass, hath not prosecuted the said writ; therefore it is considered by the court here, that the said A. and the pledges for the prosecution be in mercy, &c. The names of the said A.'s pledges are John Doe and Richard Roe, and that the said C. go thereof without day; it is also considered that the said C. recover against the said A. his damages occasioned by the said premises to be adjudged to the said C. by the court, through the direction of the justices here at the request of the said C. for his costs and charges laid out by him in that behalf, according to the form of the statute in such case lately made and provided, &c.

*Non prof. for want of a declaration in C. B.*

AND now at this day, to wit, on Friday next after eight days of St. Hilary in this same term, until which day the aforesaid

*Nisi dicit in ejectment against the casual ejector, with a remittitur of damages.*

Richard

## JUDGMENTS.

Richard Roe had leave to imparl to the bill aforesaid, and then to answer the same before our lord the king at Westminster, the aforesaid John Doe by his attorney comes and prays that the aforesaid Richard Roe may answer to his declaration aforesaid, and the said Richard Roe, although at that day solemnly called, did not appear or say any thing in bar or preclusion aforesaid of the said J. Doe, whereby the same John Doe remains against the said Richard Roe thereof undefended; wherefore it is considered that the aforesaid John Doe recover against the said Richard Roe his term aforesaid yet to come of and in the tenements aforesaid, with the appurtenances, and also his damages against the Richard Roe occasioned by the trespass and ejectment aforesaid; and hereupon the said John Doe freely here in court remits to the aforesaid Richard Roe as well all such damages, costs, and charges which may be adjudged to the aforesaid John Doe in that behalf, as also all executions for the same damages, costs, and charges; therefore the said Richard Roe is acquitted from these damages, costs, and charges, and thereof is without a day, and may depart the court, and the aforesaid John Doe prays the writ of our lord the king to be directed to the sheriff of the said county of Middlesex aforesaid, to cause him to have his full possession of and in the tenements aforesaid, with the appurtenances, and it is granted to him returnable before our said lord the king at Westminster on Wednesday next after ; the same day is given to the parties aforesaid at the same place.

Final judgment  
in B. R. in  
assumpsit.

AT which day the said William comes before our lord the king at Westminster by his said attorney, and the sheriffs, namely William Peers and William Nath, esquires, sheriffs of London, now return an inquisition taken before them at Guildhall, in the city of London aforesaid, in the parish of St. Lawrence Jury, in the ward of Cheap in the same city, on the fourteenth day of November, in the ninth year of his said majesty's reign, on the oath of twelve good and lawful men of their bailiwick; by which it is found, that the said William hath sustained damages to fifty-two pounds seventeen shillings, by reason of the not performing several promises and undertakings aforesaid to twenty-seven shillings and fourpence; therefore it is considered that the said William recover against the said Edward his damages found by the said inquisition in form aforesaid, and also eight pounds fifteen shillings and eightpence, adjudged to the said William at his request by his said majesty's said court now here, for the increase of his said costs and charges, which said damages amount in the whole to sixty-three pounds; and the said Edward is in mercy.

Entry of a judgment in county palatine upon the roll.

AND now at this day, that is to say, on Wednesday next after fifteen days from the day of Easter in this same term, until which day the said John had leave to imparl to the said bill, and then

then to answer, &c. before our lord the king at Westminster, the said John comes by his attorney aforesaid, and prays that the said John answer his said declaration; and the said John, although at that day solemnly required, comes not, nor does he say any thing in bar or preclusion of the said action by which the said Thomas remains thereof undefended against them, wherefore the said Thomas ought to recover against the said John his damages by reason of the not performing the said promises and undertakings in the said declaration mentioned, but because it is unknown to the court of our said lord the king now here what damages the said Thomas hath sustained by occasion of the premises, it is therefore commanded to the chancellor of the said county palatine of Lancaster that by the writ of our said lord the king under the seal of our said county palatine duly to be made out, and to the sheriff of the said county palatine to be directed, he do command the said sheriff that by the oath of twelve honest and lawful men of his bailiwick he diligently enquire what damages the said Thomas hath sustained, as well by occasion of the non-performance of the said promises and undertakings, as for his costs and charges by him about his suit in that behalf laid out, and the inquisition which he shall thereupon take the said chancellor of the said county palatine make appear to our said lord the king at Westminster on Wednesday next after three weeks from the day of the Holy Trinity, under the seal of the said sheriff, and the seal of them by whose oath he shall make such inquisition, together with the writ of our said lord the king to the said chancellor of our said county palatine thereupon directed; at which day, before our lord the king at Westminster, came the said Thomas by his attorney aforesaid; and the chancellor, to wit, the right honourable Thomas earl of Monmouth, chancellor of the county palatine of Lancaster, by virtue of the king's writ to him directed, returned a certain inquisition taken at Preston, in the said county of Lancaster, before sir William Farrington, knight, sheriff of the said county, by virtue of the king's writ under the seal of the said county, made and directed to the sheriff on the fourth day of June, in the first year of the reign of our sovereign lord king George the Third, now king of Great Britain, &c. by the oath of twelve good and lawful men of his bailiwick; by which it is found, that the said Thomas hath sustained damages by occasion of the non-performance of the promises and undertakings in the said declaration mentioned over and above his costs and charges by him about his suit in this behalf expended to one pound nine shillings and sixpence, and for those costs and charges to forty shillings; therefore it is considered, that the said Thomas do recover against the said John his damages aforesaid, by the said inquisition in form aforesaid found, and ten pounds and sixpence by the court of the said lord the king now here adjudged to the said Thomas at his request for increase of his said costs and damages, amounting in the whole to thirteen pounds ten shillings; and the said John in mercy, &c.

*Non prof.* for want of a declaration. **GLOUCESTERSHIRE**, to wit. **C. D.** was served with (or arrested, as the case is) a certain writ of *alias copias* of his present majesty king George the Third, issuing out of the court of his said majesty before his said majesty at Westminster, directed to the sheriff of G. returnable at Westminster aforesaid on next now last past, to answer to **A. B.** of a plea of trespass (as the case is); and the said **C.** at the same day appeared by **K. W.** his attorney, according, &c.; and the said **A.** hath not declared in the said court by his said bill or declaration in any personal action or ejectment against the said **C.** before the end of term next ensuing, being the next term after the appearance of the said **C.** at the suit of the said **A.**; therefore it is considered, that the said **A.** take nothing by the said writ, but that he be in mercy; and it is further considered, that the said **C.** recover against the said **A.** thirty-three shillings and sixpence for his costs and charges sustained by him about his defence in this behalf adjudged to the said **C.** by his said majesty's court now here, according to the form, &c. and that the said **C.** have execution thereof against the said **A.** &c.

*Non prof.* for not replying and entering issue on not guilty pleaded after the plea, and conclusion to the country. **AND** the said **C.** prays that the said **A.** may reply to the said plea of him the said **C.** upon which the said **A.** is commanded by the court of our said lord the king now here that he reply to the said plea, and enter the issue in the plea aforesaid upon Monday (a) next after fifteen days from the day of St. Martin, upon the peril thereon incumbent; upon which day the said **C.** comes before the said lord the king at Westminster by his said attorney; and the said **A.** though solemnly demanded, doth not come, nor hath he replied to the said plea of the said **C.** nor is the said bill further prosecuted against the said **C.**; therefore it is considered by the said court here that the said **A.** take nothing by the said bill, but that he and his pledges of prosecuting, to wit, **John Doe** and **Richard Roe** be in mercy, and that the said **C.** go thereof without day, &c.; and it is also considered, that the said **C.** recover against the said **A.** for his costs and charges laid out by him about his said defence in this behalf adjudged to the said **C.** at his request by the said court of our said lord the king now here, according, &c. and that the said **C.** have execution, &c.

*Mercy.*

The same form will do for not replying to a special plea, only leaving out the words "And enter the issue in the plea aforesaid."

(a) The day given by the rule to reply, it in term; but if the day given is after term, then put in the last day of the term, for all acts must be entered as done within the term.

for **GLOUCESTERSHIRE**, to wit. **J. W.** late of **T.** in the county aforesaid, yeoman, **A. C.** late of, &c. innholder, and **H. H.** of the same place, butcher, and **M.** his wife, were severally attached by his present majesty's writ to answer **J. M.** in a plea of trespass;

trespass; whereupon the said J. being summoned to prosecute the said J. A. H. and M. came not, nor doth he prosecute his said writ any further against them; therefore it is considered, that the said J. and his pledges for the prosecution be in mercy, &c. (Inquire the names of the pledges, &c.); and that the said J. A. &c. go thereof without day; and it is likewise considered, that the said J. A. &c. recover against the said J. their damages occasioned by the premises adjudged to the said J. A. &c. by the court here, *through the direction* of the justices here at the request of the said J. A. for their costs and charges laid out by them in that behalf, according to the, &c.; and that the said J. A. &c. have execution, &c. &c.

BUCKINGHAMSHIRE, to wit. J. T. was served with a *Non prof.* for copy of a writ of our lord the king, issuing out of the court of our lord the king before the king himself, and directed to the sheriff of the county of Bucks, returnable on , to answer to J. H. of a plea of trespass; and the said Thomas at that day appeared, according to the form of the statute, &c. and the aforesaid J. hath not declared in the aforesaid court of our said lord the king, before the king himself at Westminster, by his bill or declaration in any action personal or ejectment of farm against him the said J. before the end of the term of then next following, being the next term after the appearance of him the said J. at the suit of the said J.; therefore it is considered, that the said J. do take nothing by his said writ, but that he be in mercy, &c.

*Non prof. for not declaring in B. R. defendant served with common process.*

G. to wit. A. B. who brought his present majesty's writ against C. B. late of, &c. in the county aforesaid, in a plea of trespass, hath not prosecuted the said writ; therefore it is considered by the court here, that the said A. and his pledges for the prosecution be in mercy, and the names of the said A.'s pledges are J. C. and C. D. and that the said C. thereof go without day; it is also considered, that the said C. recover against the said A. his damages occasioned by the premises to C. adjudged to the said C. by the court here through the, &c. here at the request of the said C. for his costs and charges laid out by him in that behalf according, &c. &c.

*Non prof. for want of a declaration in C. B.*

In order to obtain a *non prof.* for not entering an issue, you must get a treasury rule, which the Secondary draws up of course. That unless within four days after notice of this rule to him or his attorney to be given, the plaintiff cause to

be entered on record the issues joined between the parties of term last of the same term, let a *non prof.* be entered—for this rule you pay three shillings and six pence.

*Instructions for a non prof. for not entering the issue in C. B.*

— to wit. J. W. late of T. in the said county of G. yeoman, was attached to answer J. M. in a plea of trespass on the Vol. X. F f case; *Non prof. for not entering the issue.*

case; and whereupon [So go on with the issue ending with]; and of this he puts himself upon the country; and the said J. doth the like, &c. [Then proceed with the *non prof.* as follows]: And hereupon the said Thomas cometh not, nor hath entered the issue aforesaid, nor hath further prosecuted aforesaid, therefore let him and his pledges of prosecution be in mercy, &c. [Let the names of the pledges be sought, &c.]; and the said J. go thereof without day; and it is also considered, that the said J. do recover against the said T. fifty-six pounds eight shillings by the court here adjudged to the said J. at his request, for his costs and charges laid out by him in this behalf to, &c.

*Non prof. upon a bailable writ into Lancaster for not declaring.* LANCASHIRE, to wit. J. C. was arrested by a certain writ of mandate directed to the sheriff of the county palatine of Lancaster, and grounded upon a certain writ of *latitat* of his present majesty king George the Third, issuing out of the court of his said majesty, before his said majesty at Westminster, directed to the chancellor of the county palatine, and returnable at Westminster aforesaid on        in the        year of his present majesty's reign, to answer R. R. of a plea of trespass; *and also to a bill of the said R. against the said J. for one hundred pounds upon promises, according to the custom of his majesty's court before him to be exhibited*; and the said J. in the same term appeared by A. B. his attorney, *and put in special bail according, &c.* [or filed common bail]; and the said R. hath not declared in the said court by his bill or declaration against the said J. before the end of Trinity Term then next ensuing, being the second term after the appearance *(and putting of special bail)* of the said James at the suit of the said Richard; and therefore it is considered, that the said R. take nothing by his said writ, but that he be in mercy; and it is further considered, that the said J. recover against the said R. fifty pounds for his costs and charges sustained by him about his defence in this behalf adjudged to the said J. by his said majesty's court now here, according, &c. and that the said James have execution, &c. &c.

*Non prof. for not declaring in Lancaster after service of latitat there.* LANCASHIRE, to wit. E. L. was served with a writ of *latitat* of our lord the king, issuing out of the court of our said lord the king, before the king himself at Westminster, directed to the chancellor of the county palatine of Lancaster, and returnable at Westminster aforesaid on Monday next after the ascension of, &c. [as above.]

*Judgment of non-suit according to the Stat. 14 G. 2.* CITY OF YORK returnable three weeks after Trinity term; at which day the jury between the parties aforesaid of the plea aforesaid was respited between them here until this day, that is to say, from the day of        then next following, unless

unless the justices of the said lord the king assigned to take the assizes in the county of the city aforesaid, by form of the statute and so forth on      should first come; and now at this day cometh

here the said M. A. by his attorney aforesaid; and the said J. W. although solemnly demanded, cometh not; and it appearing to the justices here that the said J. W. hath neglected to bring the issue above joined in to be tried according to the course and practice of this court; therefore according to the, &c. it is considered that the said J. W. and his pledges of prosecuting be in mercy, &c. [Inquire the names of the pledges, &c.], and that the said M. A. do go thereof without day; it is also considered, that the said M. A. recover against the said J. W. his damages by reason of the premises to ten pounds, by the direction of the justices adjudged to the said M. A. at his request, and for his costs and charges by him in that behalf sustained, according to the form, &c.

AT which day, before our said lord the king at Westminster, Final judgment the said J. comes by his attorney aforesaid, and the chancellor of on a writ of inquiry into Lancaster. the said county palatine returned that by virtue of the king's writ to him directed by another writ under the seal of the said county palatine of L. he had commanded the sheriff of the said county, namely, A. B. esquire, as by the said writ he was commanded, who in answer to the said writ returned a certain inquisition taken before him at P. in the said county, on Monday, the eleventh day of January, in, &c. by which said inquisition it is found that the said J. sustained damages by reason of the said premises, besides his costs and charges by him expended about his suit in this behalf to      pounds, and for those costs and charges to      pounds; therefore it is considered, that the said T. recover against the said damages so as aforesaid found by the said inquisition, and also      pounds for the increase of his said costs and charges adjudged by the said court to the said T. at his request, which said damages amount in the whole to the sum of      pounds; and the said J. in mercy, &c.

AND now at this day, that is to say, on (a) next after in this same term, until which day the said B. had leave to imparl to the aforesaid bill, and then to answer the same as he should be advised, the said A. comes before our said lord the king at Westminster by his said attorney; and the said B. although on the same day solemnly demanded, does not come, nor says any thing in bar or denial of the aforesaid action of the said A. whereby the said A. remains thereon against the said B. without defence; therefore it is considered, that the said A. recover against the said B. his aforesaid debt, and also      pounds, adjudged to him the said A. at his request by the said court of our said lord the king now here for his damages which he had sustained as well by reason of the

*Nil dicit in debt, with an imparlance.*

(a) The first day of term.

## JUDGMENTS.—NIL DICIT

detaining of the said debt as for his costs and charges laid out by him about, &c. ; and the said B. in mercy, &c.

*Nil dicit in debt  
the same term,  
with an imparlance.*

AND the said B. by C. D. his attorney, comes and defends the wrong and injury when, &c. and prays leave to imparl to the bill aforesaid, and it is granted to him, &c. ; and hereupon a day is given to the said parties before our lord the king at Westminster until (a) next after in this same term, to wit, for the said B. to imparl to the said bill, and then to answer the same as he should be advised, at which day the said A. comes before our said lord the king at Westminster by his said attorney ; and the said B. although on the same day solemnly demanded, does not come, nor says any thing in bar, &c. [as before, to the end.]

(a) The last day of the term, or any other day after the rule to plead is out.

*Nil dicit in case,  
on promises of  
another term, with  
imparlance.*

AND now at this day, that is to say, on next after in this same term, until which day the said B. had leave to, &c. to the said bill, and then to answer the same as he should be advised, the said A. comes before our said lord the king at Westminster by his said attorney ; and the said B. although on the same day solemnly demanded, comes not, nor says any thing in bar or denial of the aforesaid action of the said A. whereby the said A. remains thereon against the said B. without defence ; therefore it is considered that the said A. ought to recover against the said B. his damages sustained (b) by reason of the not performing the promises and undertakings before-mentioned ; but because the said court of our said lord the king now here doth not know what damages the said A. hath sustained in this behalf, therefore the sheriff of the said county is commanded that by the oath of twelve good and lawful men of his bailiwick he diligently enquire what damages the said A. hath sustained, as well by reason (c) of not performing the said promises and undertakings as for his costs and charges laid out by him about his suit in this behalf, and that he send the inquisitions which he shall take thereupon to our said lord the king at Westminster on next after under his seal and the seals of those by whose oath he shall take such inquisition, together with the king's writ to him thereupon directed, the same day is given to the said A. there, &c.

(b) If in case generally, then say by reason of the premises. (c) If in case generally, as above.

*Nil dicit of the  
same term in case,  
on promises,  
without an imparlance.*

AND the said B. by K. W. his attorney, comes and defends the wrong and injury when, &c. and the said A. prays that the said B. may answer to the aforesaid declaration of him the said A. whereupon the said B. hath until (d) next after given to him

(d) Any day in term after the rule is out, and it is generally made the last day of term.

by

by his said majesty's court here, to answer to the said declaration of the said A. and the same day is given to the said A. here, &c.; at which day the said A. comes before our said lord the king at Westminster by his said attorney; and the said B. although on that day solemnly demanded to answer thereto, cometh not, nor saith any thing in bar or denial of the aforesaid action of the said A. whereby the said A. remains thereon against the said B. without defence; therefore it is considered that the said A. ought to recover against the said B. his damages sustained (a) by reason, &c. before-mentioned; but because, &c. [as above to the end.]

(a) If in case generally, say "by reason of the premises.

[THE same as *nil dicit* in debt till]; therefore it is considered that the said B. account with the said A. of the time in which he became the bailiff of the said A. and for (b) the goods and chattels aforesaid; and the said B. is in mercy, because he hath not before accounted, &c. Judgment to account in an action of account.

(b) According to the declaration, Raft. f. 19.

AND now at this day that is to say, next after in his same term, until which day the said B. had leave to imparl to the aforesaid bill, and then to answer the same as he should be advised, the said A. comes before our lord the king at Westminster by his said attorney; and the said B. although on the same day solemnly demanded, does not come, nor say any thing in bar or denial of the aforesaid action of the said A. whereby the said A. remains against the said B. thereupon without defence; therefore it is considered that the said A. recover against the said B. the said term yet to come of and in the tenements aforesaid, with the appurtenances, and that he ought to recover his damages sustained by reason of the trespass and ejectment aforesaid; and thereupon the said A. here in court freely releases unto the said B. as well all and every the damages, costs, and charges which might or ought to be adjudged to the said A. by reason of the trespass and ejectment aforesaid, as all and every judgment and execution to be had of or for the same, therefore the said B. of the damages, costs, and charges aforesaid is acquitted; and whereupon the sheriff of the said county is commanded that without delay he cause the said A. to have his possession of the said term yet to come of and in the tenement aforesaid, with the appurtenances, and in what manner he shall execute that precept he make appear to our said lord the king at Westminster on ; the same day is given by the said A. there, &c. *Nil dicit* in ejectment against the casual ejector, with a remittitur damna, &c. and an imparlance.

AND now at this day, that is to say, on next after in this same term, until which day the said B. had leave to imparl to the aforesaid bill, and then to answer the same as he should be advised, *Nil dicit* in ejectment when against a real defendant, with an imparlance.

vifed, the faid A. comes before our lord the king at Weftminfter by his faid attorney, and the faid B. although on the fame day fo-  
lemnly demanded, does not come, nor fays any thing in bar or de-  
nial thereof, and of the aforefaid action of the faid A. whereby  
the faid A. remains againft the faid B. thereupon without defence ;  
therefore it is, &c. that the faid A. recover againft the faid B. his  
faid term yet to come of and in the tenement aforefaid, with the  
appurtenances, and that he ought to recover againft the faid B. his  
damages by reafon of the trefpafs and ejection aforefaid, therefore  
the fheriff is commanded that without delay he caufe the faid A.  
to have his poffeffion of the faid term yet to come of and in the  
tenement aforefaid, with the appurtenances, and in what manner he  
fhall execute that writ he make appear to our faid lord the king at  
Weftminfter in , next after ; but becaufe the faid court of  
our faid lord the king now here doth not know what damages the  
faid A. hath fuftained by reafon of the trefpafs and ejection afore-  
faid, the faid fheriff is alfo commanded that he diligently enquire  
by the oath of twelve good and lawful men of, &c. what damages  
the faid A. hath fuftained, as well by reafon of the trefpafs and  
ejection aforefaid as for his cofts and charges laid out by him  
about his fuit in this behalf, and that he fend the faid inquisition  
that he fhall take thereupon to our lord the king at Weftminfter  
at the day aforefaid, under his feal and the feals of thofe by whole  
oath he fhall take fuch inquisition, together with his faid majefty's  
faid laft writ to him thereupon directed ; the fame day is given to  
the faid A. there aforefaid, &c.

Judgment on  
withdrawing a  
plea in eject-  
ment againft a  
real defendant.

When without  
an impaillance  
begin as in cafe  
on promifes, on-  
ly fay inftead of  
*wrong and injury,*  
*force and injury.*

AT which day, as well the faid A. as the faid C. by K. B. his  
attorney, come before our faid lord the king at Weftminfter, and  
the fheriff of the county did not return the faid writ, nor did he do  
any thing thereupon, and upon this the faid C. relinquifhing his  
plea by him above pleaded, fays that he cannot deny the action of  
the faid A. nor but that he is guilty of the trefpafs and ejection  
aforefaid in manner and form as the faid A. hath above complained  
againft him ; nor but that he the faid A. hath fuftained damages  
by reafon of the faid trefpafs and ejection to one fhilling, and  
thereupon the faid A. prays that as well the poffeffion of the faid  
term yet to come of and in the tenement aforefaid, with the appur-  
tenances, as alfo the damages fo acknowledged, together with the  
cofts and charges laid out by him about his fuit in this behalf may  
be adjudged to him ; therefore it is confidered, that the faid A.  
recover againft the faid C. his faid term yet to come of and in the  
tenement aforefaid, with the appurtenances ; and thereupon the  
fheriff of the faid county is commanded that without delay he caufe  
the faid A. to have his poffeffion of his faid term yet to come of and  
in the tenement aforefaid, with, &c. and in what manner he fhall  
execute that precept he make appear to our faid lord the king at  
Weftminfter on next after ; the fame day is given to the  
faid A. there, &c. ; and it is alfo confidered that the faid A. reco-  
ver

ver against the said C. his damages so acknowledged to one shilling, and also ten pounds ten shillings for his said costs and charges adjudged to the said A. at his request by the said court of our said lord the king now here, which said damages amount in the whole to ten pounds ten shillings; and the said C. be taken, &c.

If there are any continuances between the issue and judgment enter them.

AT which day the parties aforesaid come before our said lord Judgment on a the king at Westminster by their said attornies, and the sheriff of plea being with- the said county did not return the said writ, nor did he do any drawn after issue thing thereupon; therefore, as before, let a jury thereupon come joined, with con- and before our said lord the king at Westminster on next after tinuances, and award of a writ and also neither, &c. to recognize, &c. because as well, &c. the of enquiry, the same day is given to the same parties there, &c. : At which day the damages not be- the said parties come before our said lord the king at Westminster ing contested. by their said attornies, and the sheriff of the said county did not First Continu- return that writ, nor did he do any thing thereupon; therefore, as ance. before, let a jury thereupon come before our said lord the king at Westminster on next after , and who neither, &c. to recognize, &c. because as well, &c. the same day, &c. : At which Second Continu- day come as well the said A. by his said attorney as the said B. by ance. K. W. his attorney before our lord the king at Westminster, and the sheriff of the county did not return that writ, nor did he do any thing thereupon; and upon this the said B. relinquishing his Plea withdrawn, several pleas by him above pleaded, saith, he cannot deny the and judgment action of the said A. nor but that he the said B. did promise contested. and undertake in manner and form as the said A. hath above complained against him; therefore it is considered that the said A. ought to recover against the said B. his damages sustained by reason of the not performing the promises and undertakings before mentioned; but because, &c. as in a common judgment by *nil dicit*.

The like when the damages are ascer- if any, must be the same as the last, and tained and contested; the continuances, then proceed as follows :

AT which day come as well the said A. by his said attorney as the If the defendant said B. by K. W. his attorney before our said lord the king at West- comes by the minster, and the sheriff of the said county did not return the said same attorney writ, nor did he do any thing thereupon, and upon this the said that he pleaded B. relinquishing the plea by him above pleaded, saith, that he can- by, then say, at not deny the action of the said A. nor but that he the said B. did which day the promise and undertake in manner and form as the said A. hath com- said parties come by their said at- tained against him, nor but the said A. hath sustained damages by tornies before &c. reason, &c. aforesaid to pounds; and thereupon the said A. prays, &c. as in a judgment by *cognovit actionem*.

Judgment in a plea being withdrawn after the issue roll was carried into the treasury, with a continuance in debt.

[AFTER the end of the issue go on, and in the same line as follows]: At which day, before our said lord the king at Westminster, as well the said A. by his said attorney as the said B. in his own proper person, do come, and the sheriff of the said county did not return the said writ, nor did he do any thing thereupon; therefore, as before, let the jury come before our said lord the king at Westminster on, &c. and who neither, &c. to recognize, &c. because as well, &c. the same day is given to the same parties at the same place; at which day, before our lord the king at Westminster, come as well the said A. by his attorney aforesaid as the said B. in his own proper person, and the sheriff of the said county did not return that writ, nor did he do any thing thereupon, and hereupon the said B. relinquishing his plea by him above pleaded, saith, that he cannot deny the action of the said A. nor but that the said writing-obligatory is his deed, nor but that he oweth to the said A. pounds, in manner and form as the said A. has complained against him; therefore it is considered that the said A. recover against the said B. the said debt, and also pounds, for his damages which he hath sustained as well by reason of the detaining that debt as for his costs and charges by him sustained about his suit in this behalf adjudged to the said A. by the court of our said lord the king now here with his assent; and the said B. is in mercy, &c.

Judgment against an executor after plea administered, and replication thereto being pleaded and withdrawn before the roll is carried in.

AT which day, the said parties come before our said lord the king at Westminster by their said attorneys, and upon this the said C. S. having withdrawn and relinquished the verification of his said plea by him in form aforesaid above pleaded, saith, that he cannot deny the said action of the said K. nor but that the said C. at the time of exhibiting the said bill of the said K. that is to say, on, &c. had divers goods and chattels which were of the aforesaid S. W. at the time of his death in his hands to be administered, to the value of the debt aforesaid, in manner and form as the said J. hath above in his said replication alledged; therefore by consent of the said parties it is considered that the said J. recover against the said C. his debt aforesaid, and also eight pounds thirteen shillings for his damages which he hath sustained as well by reason, &c. as for his costs and charges laid out by him about his suit in this behalf adjudged to the said J. at his request by the said court of the said lord the king now here, to be levied of the goods and chattels which were of the said J. W. at the time of his death, in the hands of the said C. to be administered, if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered, then the damages aforesaid to be levied of the proper goods and chattels of the said C.; and the said C. is in mercy, &c.

AND the said defendant, by A. B. his attorney, comes and defends the force, &c. and the said attorney saith that he is not instructed by the said defendant his client of any answer for the said defendant in the said complaint to be given, and saith nothing else thereto, whereby the said plaintiff remains against the said defendant undefended in the said action; therefore it is considered that the said plaintiff do recover his said debt and damages occasioned by the detaining the same adjudged by this court, the same plaintiff with his consent to fifty shillings; and the said defendant in mercy, &c.

[IF by *nil dicit*, they say, in his proper person comes, &c. *Nil dicit*. when, &c. and says nothing to bar or obstruct the action of the said plaintiff, whereby the said plaintiff remains against the said defendant undefended therein; therefore it is considered, as in the last.]

AND the said R. H. in his, &c. comes and defends the force, injury, and damages, and whatever else he ought to defend when and where the court will consider thereof; and hereupon the said R. R. prays that the said Richard may make an answer to the said declaration, upon which the said R. (a) gives no answer to the said complaint of the said R. and says nothing in bar or hindrance of the said action of the said R. whereby the said R. remains against the said R. undefended therein; therefore it is considered that the said R. do recover his said term of and in the said tenements, with the appurtenances, against the said R. and his damages occasioned by the said trespass and ejectment to be awarded to him, &c.; and the said R. of his own accord remits and releases to the said R. such damages so awarded to him; therefore the said Richard is acquitted of such damages; and the said R. prays a writ of our sovereign lord the king to be directed to the sheriff of the same county to cause him to have his possession of his said term yet to come and unexpired of and in the said tenements, with the appurtenances, and it is granted to him, &c. returnable on, &c.

(a) If by attorney, say, upon which the said attorney of the said R. H. saith he is not instructed by the said R. H. his client to give any answer to the said complaint, &c.

AND the said defendant, by A. B. his attorney, comes and defends the force and injury when, &c. and the said attorney saith that he is not instructed by the said defendant his client of any answer for the said defendant in the said complaint to be given, and says nothing else thereto, whereby the said plaintiff remains against the said defendant undefended in the said action, for which reason the said plaintiff ought to recover his said damages against the said defendant occasioned by the said defendant's not performing, &c.

made

made by him to the said plaintiff; but because it is not known what damages the said plaintiff hath sustained by reason of the not performing, &c. therefore the sheriff is commanded that he diligently enquire by the oath of twelve honest and lawful men of his said county what damages the said plaintiff hath sustained as well by reason of the not performing, &c. aforesaid as for the expences and costs by him laid out about his suit in this behalf, and that the sheriff cause the inquisition that he takes thereupon to be before his majesty's justice at Westminster on      under his own seal and the seals of those      whose oaths he shall take such inquisition: [If by *nil dicit*, say in his own proper person comes and defends the force and injury, &c. and says nothing to bar or obstruct the action of the said plaintiff whereby the said plaintiff ought to recover his damages against the said defendant occasioned (and so on) before. If at the suit of an executor, say thus, occasioned by the said defendant not performing the said ferial, &c. made by      to the said deceased in his lifetime. If against an executor, say, occasioned by the not performing, &c. made by the said deceased in his lifetime to the said plaintiffs. If at the suit of an executor against an executor, say, occasioned by the not performing, &c. made by the said defendant, deceased, in his lifetime, to the said plaintiff, deceased, in his lifetime; then the return on, &c.]

**Judgment** in  
case, with award  
and return of  
enquiry.

AND the aforesaid J. H. by B. C. his attorney, comes and defends the wrong and injury when, &c. and says nothing in bar or denial of the action of the said B. whereby the said B. remains against the said J. therein undefended, for which reason the said B. ought to recover his damages against the said J. occasioned by the said J. not performing, &c. aforesaid; but because it is not known what damages the said B. hath sustained by occasion of the not, &c. therefore the sheriffs of the city of London are commanded, that by the oaths of twelve honest and lawful men of their bailiwick they diligently enquire what damages the said B. hath sustained as well by reason of the not, &c. aforesaid as for the costs and charges laid out by him about his suit in this behalf, and that the sheriff's cause the inquisition which they shall make thereon to be before his majesty's justices at Westminster on      under their own seals and the seals of those by whose oaths they shall make such inquisition; at which day here cometh the aforesaid B. by his attorney aforesaid, and the sheriffs, namely, R. W. esquire, and      esquire, now return here a certain inquisition taken before them at Gr. in the city of L. in the, &c. on      by the oaths of twelve honest and lawful men, &c. by which it is found that the said B. hath sustained damage by reason of the premises, besides his costs and charges by him about his suit in this behalf expended, to      and for his costs and charges to twenty-four shillings and fourpence; therefore it is considered that the said B. recover against the said J. his damages aforesaid to seventy six pounds

pounds one shilling and fourpence, by the inquisition aforesaid in form aforesaid found, and also fourteen pounds twelve shillings and eightpence adjudged by the said court here to the said B. at his own request for increase of his said costs and charges, which said damages amount in the whole to        pounds; and the aforesaid J. in mercy, &c.

YORKSHIRE, to wit. It was commanded the sheriff, Judgment by  
 whereas J. S. lately deceased, lately in the court of our lord the <sup>default on a scire</sup> now king, to wit, in the term of       , before        and his <sup>facias at suit of</sup> brethren, justices of our said lord the king of the C. B. at West-  
 minster, by the consideration of the same, &c. had received against <sup>an executor to</sup> J. W. late of W. in the said county of York, as well a certain <sup>revive a judg-</sup> debt of two hundred pounds as also seventy pounds which were <sup>ment obtained</sup> adjudged to the said J. in the same court for his damages which <sup>in the lifetime of</sup> he had sustained by reason of the detaining, &c. whereof he is <sup>the testator.</sup> convicted, as by the record and proceedings thereof now remain-  
 ing in the same court before the justices of our said lord the king here, to wit, at Westminster aforesaid, manifestly appears: And whereas the said J. after judgment aforesaid in form aforesaid, at L. aforesaid, in the county of York aforesaid, made his last will and testament in writing, and thereof did appoint and ordain W. D. his executor, and afterwards there died; and although judgment thereof be rendered, yet the execution of the debt and damages aforesaid doth yet remain to be made, as our said lord the king hath received information from the said W.; and because our said lord the king is willing that those things which in the same court are rightly acted should have due execution, therefore our said lord the king commanded the sheriff of the said county of York, that by honest and lawful men of his bailiwick he should cause the said J. to know that he should be before the justices of our said lord the king at Westminster aforesaid on, &c. to shew if he had or know of any thing to say for himself why the said W. ought to have execution against the said J. for the debt and damages aforesaid, according to the form and effect of the recovery aforesaid, if to him it shall seem expedient; and now here at this day, on the, &c. the said W. comes here by G. J. his attorney, and offered himself the fourth day against the said J. of the plea aforesaid, and the sheriff, namely,       , bart. there returned that by virtue of the aforesaid writ to him directed he hath made known to the said J. by J. M. and J. G. honest and lawful men of their bailiwick, that he the said J. before the said justices of our said lord the king at the day and place above mentioned, as he was thereby commanded, and the said J. B. being so summoned, and at the day aforesaid solemnly called, cometh not, but maketh default; and hereupon the said W. prays the execution may be adjudged to him against the said J. for the said debt and damages; therefore it is considered and adjudged that the said W. have  
 execution

## JUDGMENTS

execution against the said J. for the debt and damages aforesaid by the debt of the said J. &c.

Entry of judgment upon a *seire facias*.

**YORKSHIRE**, to wit. Whereas C. S. lately in the court of our lord the king, to wit, in the term of, &c. on , before and his brethren there, justices of our said lord the king of the C. B. at Westminster, by the consideration of the same, &c. had recovered against J. W. late of , in the said county of York, gentleman, as well a certain debt of seventeen pounds as also fifty shillings which were adjudged to the said C. in the said court for his damages which he had sustained by reason of the detaining that debt, whereof he is convicted, as by the record and proceedings thereof now remaining in the same court before the justices of our said lord the king here, to wit, at Westminster, manifestly appears; nevertheless execution of the said judgment yet remains to be done, as our lord the king hath received information from the said court; and because our said lord the king is willing that those things in our same court are rightly done should have a due execution, therefore our said lord the king commanded the sheriff of the said county of York, that by honest and lawful men of his bailiwick he should cause the said J. to know that he should be before our, &c. here, to wit, at Westminster, on , to shew if he had or knows any thing to say for himself why the said C. ought not to have execution against him for the debt and damages aforesaid, according to the form and effect of the recovery aforesaid, if to him it shall seem expedient; and now here at this day, to wit, the said C. cometh here by N. M. his attorney, and offered himself the fourth day against the said of the plea aforesaid, and he being solemnly called cometh not, and the sheriff, namely, , now returneth that the said J. O. hath nothing in his bailiwick whereby or by which he can summons him, nor is he found in the same; and hereupon the said C. prays that execution may be adjudged to him against the said J. for the debt and damages aforesaid; therefore it is considered that the said C. have execution against the said J. for the debt and damages aforesaid by the default of the said John, &c.

Entry on the roll and award of execution on a *seire facias* to revive a judgment returned *quod nil*.

**BERKSHIRE**, to wit. It was commanded the sheriff, whereas J. Y. deceased, lately in the court of our lord the present king, that is to say, in Trinity, &c. on , before and his brethren, his said majesty's justices of the C. B. at W. by the consideration of the same court, had recovered against G. C. late of the University of Oxford, in the county of Oxford, clerk, as well a debt of four hundred pounds as fifty shillings which in the same court were adjudged to the said J. for his damages which he had sustained by reason of the detaining the said debt, whereof is convicted, as by the record and proceedings thereof now remaining in his said majesty's said court before his said majesty's justices

justices at W. aforesaid manifestly appears: And whereupon the said J. after the said judgment was in form aforesaid recovered, at R. in the county of B. aforesaid, made his last will and testament in writing, and thereof did appoint and ordain M. his wife, since deceased, sole executrix, and afterwards died (the debt and damages aforesaid, or any part thereof, being not satisfied), after whose death said M. took upon herself the, &c. of the will of the said J. &c. proved the same in due form of law, and afterwards the said M. there made her last will and testament in writing, and by the same constituted W. R. executor thereof, and afterwards there died, the debt and damages aforesaid, or any part thereof, not being satisfied; and although the said judgment was rendered in form aforesaid, yet execution for the debt and damages aforesaid doth yet remain to be made, as on the behalf of the said William in his majesty's said court his said majesty hath received information; whereupon the said W. prayeth his said majesty to grant him a fit remedy in this behalf, and his said majesty being willing that those things which are rightly acted in his said majesty's said court should be put in execution, therefore his said majesty commanded the sheriff of the said county of B. that by honest and lawful men of his bailiwick he should make known to the said C. that he should be before his said majesty's justices at Westminster on                    to shew if he had or knew any thing to say for himself why the said W. ought not to have execution against the said G. for the debt and damages aforesaid, according to the form and effect of the said recovery, if it should seem meet for him so to do; and now here at this day the said W. cometh here by G. C. her attorney, and offered herself the fourth day against the said G. of the plea aforesaid, &c. and the said G. although solemnly called, doth not come, and the sheriff, namely, A. B. esquire, now returneth that the said G. P. hath not any thing in his bailiwick by which he can cause him to know as by the said writ is commanded him, nor is he to be found in the same; and hereupon the said W. brings here in court as well the letters testamentary of the said James as the letters testamentary of the said M. whereby it sufficiently appears to the said court here that the same W. is executor of the said will of the said M. and thereof hath administration, &c. and that she the said M. was executrix of the will of the said J. and thereof had the administration, &c.; and the said W. prays execution against the said G. for the debt and damages aforesaid recovered in form aforesaid to be adjudged to him, &c.; therefore it is considered that the said W. have execution against the said G. for the debt and damages aforesaid by the default of the said G. &c.

GLOUCESTERSHIRE, to wit. J. G. late of, &c. was judgment by summoned to answer H. L. widow, of a plea that he render to her three hundred pounds which he owes to and unjustly detains from her, &c.; and whereupon the said H. by J. S. her attorney, <sup>warrant of attorney on non sum informatus.</sup> saith,

faith, that whereas the said J. on the first day of June, in the year of Our Lord 1742, at J. in the county aforesaid, did borrow of the said H. the said three hundred pounds, to be paid to the same H. when he should be thereunto requested; nevertheless the said J. although often requested, hath not yet rendered to the said H. the said three hundred pounds, but hath hitherto wholly refused, and still doth refuse to render the same to her, whereby she saith that she is injured, and hath sustained damages to the value of forty pounds; and thereupon she brings this suit, &c.

And the said J. by R. G. his attorney, comes and defends the wrong and injury when, &c. and the same attorney says that he is not informed by the said J. of any answer to be given for the said J. to the said H. to the declaration aforesaid, and says nothing more thereto, whereby the said H. remains against the said J. thereof undefended; therefore it is considered that the said H. do recover against the said J. her aforesaid debt and damages by reason of the detaining that debt to sixty-three shillings by the court here adjudged to the same H. with our consent; and the said J. is in mercy, &c.

Judgment by on **BERKSHIRE**, to wit. Be it remembered, that on at  
*mutuatus* Westminster came T. N. gentleman, by H. W. his attorney,  
 warrant of at- and brought here into the court of our sovereign lord the king  
 torney, B. R. then there his certain bill against W. N. being in the custody of  
 the marshal of the Marshalsea of our lord the king before the king  
 himself in a plea of debt, and there are pledges for the prosecution  
 thereof, to wit, John Doe and Richard Roe, which said bill fol-  
 lows in these words, to wit, Berkshire, to wit: J. F. gentleman,  
 complains of W. N. esquire, being in the custody of the marshal  
 of the Marshalsea of our sovereign lord the king before the king  
 himself of a plea that he render to him two hundred pounds of  
 lawful money of Great Britain, which he owes to and unjustly  
 detains from him, for that whereas the said W. on , in the  
 year of Our Lord , at Westminster, in the county aforesaid,  
 did borrow of the said J. the aforesaid two hundred pounds, to be  
 paid to the said J. when he should be thereunto requested; never-  
 the said W. although often requested, the aforesaid two hundred  
 pounds, or any part thereof, to the said J. hath not rendered, but  
 hath hitherto wholly refused, and still doth refuse to render the  
 same to him, whereby the same J. saith he is injured, and hath  
 sustained damages to the value of thirty pounds; and thereupon,  
 &c.

And the aforesaid W. by R. J. his attorney, comes and defends the wrong and injury when, &c. and the aforesaid J. prays that the said W. may answer the said bill of the said J. whereupon the said attorney of the said W. says that he is not informed by the said W. of any answer to be given for the said W. to the said J. in the premises,

Premises, and says nothing else thereto in bar or preclusion of the said action of the said J. whereby the said J. remains against the said W. therein undefended; therefore it is considered that the said J. do recover against the said W. his debt aforesaid, and also sixty-three shillings for his damages which he hath sustained as well by reason of detaining of that debt as for his costs and charges by him about his suit in this behalf expended to the said J. by the court of our said lord the king now here with his own assent; and the aforesaid W. is in mercy, &c.

OXFORDSHIRE, to wit. Ann A. late of, &c. in the county aforesaid, widow, administratrix of the goods and chattels, rights, and credits which was of W. A. her late husband, deceased, at the time of his death, who died intestate, was summoned to answer W. A. gentleman, of a plea that she render to him eighty-six pounds twelve shillings, which she unjustly detains from him, &c.; and whereupon the said W. A. by T. S. his attorney, saith, that whereas the said J. A. in his lifetime, to wit, on, &c. 1741. at B. in the county aforesaid, did borrow of the said W. the said eighty-six pounds twelve shillings, to be paid to the said W. A. when he should be thereto afterwards requested; yet the said J. A. in his lifetime, and the said A. since his decease, although often requested, have not, nor hath either of them paid the said sum of money, or any part thereof, to the said W. A. but to pay him the same have hitherto wholly refused, and the said A. still doth refuse to the said W. A. his damages of ten pounds; and therefore, &c.: And the said A. by C. C. her attorney, comes and defends the wrong and injury when, &c. and the same attorney says that he is not informed by the said A. of any answer to be given for the said A. to the said W. A. to the declaration aforesaid, and says nothing in bar thereto, wher by the said W. A. remains against the said A. thereof undefended; therefore it is considered that the said W. A. doth recover against the said A. as administratrix in form aforesaid, the said debt of eighty-six pounds twelve shillings, and his damages by reason of the detaining of the same debt to sixty shillings, adjudged to the said W. A. and with his assent by the court here to be levied of the goods and chattels which were of and belonging to the said J. A. at the time of his death, being in the hands of the said A. to be administered, and if she hath not then the damages to be levied of the proper goods and chattels of the said A.; and the said Judgment on writ of attorney against an administratrix, C. B. is in mercy, &c.

LANCASHIRE, to wit. Be it remembered, that on Wednesday next after three weeks of the Holy Trinity, in this same term, before the lord the king at Westminster, came E. B. widow, by H. J. W. her attorney, and brought into the court of Entry of judgment by warrant of attorney in debt on bond where the bond is dated in vacation, subject to the term it is a judgment of.

our lord the king then there her certain bill against W. B. being in the custody of the marshal of the Marshalsea of the lord the king, before the king himself, of a plea of debt, and there are pledges of prosecution, to wit, J. D. and Richard Roe, which said bill follows in these words, to wit, Lancaster, to wit: E. B. widow, complains of W. B. being, &c. of our lord the king, before the, &c. of a plea that he render to her one hundred and thirty pounds, which he owes and unjustly detains from her, &c. for this, to wit, that whereas the said W. on the thirteenth day of June, in, &c. 1765, at P. in the said county of L. by his certain obligation then and there made, and sealed with his seal, and delivered, but bearing date the twenty-sixth day of August, in the said year 1765, which said writing obligatory is now shewn to the court of our said lord the king now here, became held and firmly bound to the said E. in the sum of one hundred and thirty pounds, to be paid unto the said E. when he the said W. should be thereunto requested; nevertheless the said W. although often requested, the said sum of one hundred and thirty pounds, or any part thereof, to the said E. hath not rendered, but the same to her to render hath hitherto altogether denied, and still doth deny, whereupon the said E. saith that she is damnified to the value of thirty pounds; and thereupon she bringeth, &c.: And the said W. by W. G. his attorney, comes and defends the wrong and injury when, &c. and the said E. prays that the said W. may answer to her said declaration; whereupon the said attorney of the said W. says that he is not informed by the said W. of any answer to be given for the said W. to the said E. in the premises, nor does he say any thing else in bar or preclusion of the said action of the said E. by reason whereof the said W. remains therein undefended against the said W.; therefore it is considered that the said E. do recover against the said W. her said debt, and also sixty-three shillings for her damages which she hath sustained as well by occasion of the detaining of that debt as for her costs and charges by her about her suit in this behalf expended, by the court of our said lord the king now here adjudged to the said E. by her assent; and the said W. in mercy, &c.

Interlocutory  
judgment, with  
award and re-  
turn of enquiry,  
and final judg-  
ment thereon.

OXFORDSHIRE, to wit. Be it remembered, that heretofore, that is to say, in the term of, &c. W. J. came before our lord the king at Westminster, by K. W. his attorney, and brought into the said court of our said lord the king then there his bill against , clerk, being in the, &c. of our said lord the king, in a plea of trespass on the case, and there are pledges for the prosecution, to wit, John Doe and Richard Roe, which said bill follows in these words, to wit, Oxfordshire, &c. W. J. complains of W. B. clerk, &c. and now at this day, that is to say, on , in this same term, until which day the said W. B. had leave to impart to the aforesaid bill, and then to answer the same as he should be advised, the said W. T. comes before our sovereign

lord



bill against M. M. being in custody of the marshal of the Marshalsea of our said lord the king in a plea of trespass and ejectment, and there are pledges for the, &c. to wit, J. D. and R. R. which said bill follows in these words, Gloucestershire, to wit; J. J. complains of M. N. being in the, &c. of our lord the king, before the king himself, for this, to wit, that whereas, &c.

Judgment.

And now at this day, that is to say, on      in this same term, until which day the said M. had leave to imparl to the aforesaid bill, and then to answer the same as he should be advised, the said J. comes before our said lord the king at Westminster, by his said attorney, and prays that the aforesaid M. may answer to his declaration aforesaid; and the said M. although on the same day solemnly demanded, does not come, nor says any thing in bar or denial of the aforesaid action of the said J. J. whereby the said J. J. remains against the said N. thereupon without defence; therefore it is considered that the said J. J. recover against the said M. his said term yet to come of and in his tenements, with the appurtenances, and that he ought to recover his damages sustained by reason of the trespass and ejectment as aforesaid.

And the aforesaid J. D. prays the writ of our lord the king to be directed to the sheriff of M. aforesaid, to cause him to have his full possession of and in the tenements aforesaid, with the appurtenances, and it is granted to him returnable before our lord the king at Westminster, on      ; the same day is given to the parties at the same place; and thereupon the said J. J. freely here in court remits and releases to the said M. as well *all and every such* the damages, costs, and charges, which might or ought to be adjudged to the aforesaid J. J. (in that behalf) *by reason of the trespass and ejectment* aforesaid, as *all and every such* judgments and executions to be had of or for the same; therefore the said M. is acquitted from those damages, costs, and charges, and thereof is without day and may depart the court, whereupon the sheriff of the said county is commanded, that without delay he cause the said J. J. to have his possession of the said term yet to come of and in the said tenements, with the appurtenances, and in what manner he shall have executed that precept, he make appear to our said lord the king at Westminster, on      ; the same day is given to the said, &c.

*Cognovit* acknowledged in tale on promises and final judgment thereon. of declaration of Easter, 16. Geo. II. and judgment in Hilary, 17. Geo. II.

AND the said T. in his proper person comes and defends the wrong and injury when, &c. and prays leave to imparl here until      , and he hath it, &c. the same is given to the said E. to be here, &c. at which day here come as well the said E. by his said attorney, as the said J. in his proper person; and the said E. prays that the said J. may answer to the bill aforesaid, &c. and upon this the said J. defends the wrong and injury when, &c. and says that he cannot deny the said action of the said E. nor but that he promised

mised and undertook in manner and form as the said E. hath above complained against him, nor but that the said E. hath sustained damages by reason of the not performing the, &c. aforesaid, to seven pounds three shillings and eightpence, as the said E. hath in her declaration above supposed, and thereupon the said E. prays that the damages to acknowledged, together with her costs and charges laid out by her about her suit in this behalf may be adjudged to her; therefore it is considered that the said E. recover her damages so acknowledged to seven pounds three shillings and eightpence, and also six pounds ten shillings, for her costs and charges adjudged to the said E. at her request by the court here, which said damages amount in the whole to thirteen pounds thirteen shillings and eightpence; and the said J. is in mercy, &c.

OUR lord the king hath sent to the sheriff of London (the county the writ was directed to) his writ closed in these words, to wit, George the Second, &c. [*As in the writ to the end*] on , at which day the said E. came before our said lord the king at Westminster in his proper person, and the sheriffs, to wit, and returned the said writ directed to them as aforesaid in manner and form following, that is to say, that the said J. W. the younger had nothing in their bailiwick where or by which they could make known to him as by the said writ they were commanded, nor was the said J. found in the same, and the said J. did not come; therefore as before the sheriffs were commanded, that by honest and lawful men of their bailiwick, they should make it known to the said J. that he be before our said lord the king at Westminster aforesaid, on , to shew in form aforesaid if, &c. the same day is given to the said E. there, &c. at which day the said E. comes before our said lord the king at Westminster aforesaid in her proper person; and the sheriffs now return as before, that the said J. W. hath nothing in their bailiwick where or by which they could make known to him as by the said writ they were commanded, nor is the said J. found in the same, and the said J. although solemnly demanded, comes not, but makes default; and hereupon the said E. brings here into court the letters testamentary of the said J. whereby it sufficiently appears to the said court here that she the said E. is executrix of the said will of the said J. and thereof hath administration, &c. but because the said court of our said lord the king now here is not yet advised of their judgment to be rendered of and upon the premises, a day is further given to the said E. to come before our said lord the king at Westminster, until next after , to hear their judgment thereof, because the said court of our said lord the king is not yet advised, &c. at which day the said E. comes before our said lord the king at Westminster in her proper person, and all and singular the premises being seen and fully understood, it is considered that the said E. [If an ejectment, say have his possession of his said term yet to come of and in the tenements aforesaid, with the appurtenances] have execution

against the said J. for the damages aforesaid, according to the force, form, [If against bail, say, and effect of the recognizance aforesaid] and effect of the said recovery by the default of the said J. &c.

Entry of judgment by default in a writ of fieri facias and scire facie returned in execution against the capital debtor, with a cur. ad.

OUR lord the king hath sent to the sheriffs of L. his writ closed in these words, to wit, George the Third, &c. [*And so on to the end of the writ*] at which day the said J. comes before our lord the king in his proper person, and the sheriff, to wit, E. M. esquire, at this day returned the said writ directed to him as aforesaid in manner and form following, that is to say, that by virtue of the said writ to him directed, he had by good and lawful men of his bailiwick made known to J. B. and M. A. widow, tenants in possession of all the premises in the said writ mentioned, that they be before our said lord the king at the day and place in the said writ mentioned, to shew if they had or knew of any thing therefore to say for themselves why the said J. D. should not have his possession of the term in the said writ mentioned then to come of and in the tenements, with the appurtenances, in the said writ mentioned, according to the form of the said writ, as by the said writ he was commanded; and the said J. B. and M. A. though warned and solemnly demanded come not, but make default, and thereupon the said J. D. prays his possession of the said term yet to come of and in the tenements aforesaid, with the appurtenances, according to the force, &c. to be adjudged to him, &c. because the said court of our said lord the king now here is not yet advised what judgment to give of and upon the premises, a day is further given to the said J. D. to come before our said lord the king at Westminster, until to hear their judgment thereof, because the said court of our said lord the king now here is not yet advised, &c. at which day the said J. D. comes before our said lord the king at Westminster in his proper person, and thereupon all and singular the premises aforesaid being seen and fully understood, it is considered that the said J. D. have his possession of his said term yet to come of and in the tenements aforesaid, with the appurtenances, according, &c. by the defaults of the said J. B. and M. A. &c.

Interlocutory judgment and imparlance, with award of writ of inquiry to the chancellor of Lancaster.

AND now at this day, that is to say, on in this same term, until which day the said J. had leave to imparl to the aforesaid bill, and then to answer the same as he should be advised, as well the said Ann by her said attorney, as the said J. in his own proper person, according to the form of the statute in such case, &c. do come before our said lord the king at Westminster; and the said J. defends the wrong and injury when, &c. and says nothing in bar or denial of the aforesaid action of the said Ann, whereby the said A. remains therein against the said J. without defence; therefore it is considered that the said A. ought to recover against the said J. her

her damages sustained by reason of the said J. not performing the before-mentioned promises and undertakings, but because the said court of our said lord the king now here doth not know what damages the said A. hath in this behalf sustained, therefore the chancellor of the said county palatine of Lancaster is commanded, that he by virtue of his said majesty's writ of the said county duly to be made out, and to be directed to the sheriff of the said county palatine, do command the same sheriff that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the said A. hath sustained, as well by reason of the not performing the promises and undertakings aforesaid, as for her costs and charges laid out by her about her suit in this behalf, and that the said chancellor send the inquisition, which the said sheriff shall take thereupon to our said lord the king at Westminster, on \_\_\_\_\_, under the seal of the said sheriff, and the seals of those by whose oath the said sheriff shall take such inquisition, together with the said writ to the said chamberlain thereon directed; the same day is given to the said J. there, &c.

AND the said C. by J. P. his attorney, comes and defends the *Nil dicit in hoc* wrong and injury, &c. and says nothing in bar or demal of the in C. B. aforesaid action of the said A. whereby the said A. remains therein undefended by the said C.; therefore it is considered that the said A. recover against the said C. his said debt and damages occasioned by the detaining of the said debt to \_\_\_\_\_ pounds adjudged to the said A. at his request by the court here; and the said C. is in mercy, &c.

AND the said C. by \_\_\_\_\_ his attorney, comes and defends the *Non sum inform.* wrong and injury when, &c. and the said A. prays that the said *minus in debet.* C. may answer to the aforesaid declaration of him the said A. whereupon the said attorney of the said C. says that he is not informed by the said C. of any answer to be given to the said A. for him the said C. to the complaint aforesaid, and says nothing more thereto whereby the said A. remains against the said C. without defence; therefore it is considered that the said A. recover against the said C. his debt aforesaid, and his damages occasioned by the detaining of the said debt to \_\_\_\_\_ pounds adjudged by the court here to the said A. at his request; and the said C. is in mercy, &c.

AND the said C. by \_\_\_\_\_ his attorney, comes and defends the *Cognovist actionem* wrong and injury when, &c. and says that he cannot deny the in debt. aforesaid action of the said A. nor but that he owes to the said A. the aforesaid \_\_\_\_\_ pounds in manner and form as the said A. hath above declared against him; therefore it is considered that the said A. recover, &c. [*As before.*]

## JUDGMENT NIL DICIT—

**The like in debt on bond.** [As above, till when, &c.] And says that he cannot deny the aforefaid action of the faid A. nor but that the writing obligatory aforefaid is his deed, nor but that he owes to the faid A. the faid pounds in manner and form as the faid A. &c.

**Nil dicit in assumptis.** The same as above, only instead of the words, *by reason of the not performing the several promises and undertakings before mentioned*, say by reason of the premises aforefaid;

If in trespass, then say “by reason of the trespass aforefaid;”

If in assault, then say “by reason of the trespass and assault aforefaid,”

If in assault and imprisonment, then say “by reason of the trespass and assault and imprisonment;”

If in covenant, then say “by reason of the breaking of the covenant aforefaid.”

**Rolls and judgment.** AND the faid C. in his proper person comes and defends the wrong and injury when, &c. [If against an unprivileged person, or the judgment be entered the same term with the declaration, leave out this imparlance, and in the former case let the defendant come by *attorney*, and not in *person*], and prays leave to imparl here until            next after           , and he hath it, &c. the same is given to the faid A. to be here, &c. at which day here comes as well the faid A. by his faid attorney, as the faid C. in his proper person; and the faid A. prays that the faid C. may answer to the bill aforefaid, &c. and upon this the faid C. defends the, &c. when, &c. and says that he cannot deny the faid action of the faid A. nor but that he promised and undertook in manner and form as the faid A. hath above complained against him, nor but that the faid A. hath sustained damages by reason of the not performing the promises and undertakings aforefaid to            pounds, as he the faid A. hath in his bill (or declaration, as the case is,) above supposed, and therefore the faid A. prays that the damages so acknowledged, together with his costs and charges laid out by him about his suit in this behalf may be adjudged; therefore it is considered that the faid A. recover against the faid C. his damages so acknowledged to            pounds, and also            for his costs and charges adjudged to the faid A. at his request by the faid court here, which said damages amount in the whole to           , and the faid C. is in mercy, &c.

**The like in debt against ney for of the debt, &c.** [As before till], And says that he cannot deny the aforefaid action of the faid A. nor but that he owes to the faid A. the sum of            of the debt, &c. remainder for the residue.

of thirty-five pounds and ten shillings, parcel of the said thirty-nine pounds, in manner and form as the said A. [If against a common person, then instead of this, say *hath above declared against him*] hath by his said bill above alledged; therefore it is considered that the said A. recover against the said C. the sum of , parcel of the debt aforesaid, and his damages occasioned by the detaining of the said sum of to adjudged by the court here to the said A. at his request; and the said C. is thereof in mercy, &c. and hereupon the said A. freely here in court remits to the said C. three pounds ten shillings, the residue of the debt aforesaid; whereupon the said C. is acquitted of the said three pounds ten shillings in form aforesaid remitted, and may go thereof without day.

AT which day come here as well the said A. as the said C. by their attorneys aforesaid, and hereupon the aforesaid plea of the said A. above pleaded in reply being seen and fully understood by the justices here, it appears to the said justices here that the plea of the said A. and the matter therein contained are good and sufficient in law for the said A. to have and maintain his aforesaid action against the said C. as the said A. hath above alledged; therefore it is considered, &c.

Upon a demur-  
rer to the plain-  
tiff's replication  
for the plaintiff

AND the said C. by his attorney, comes and defends the force and injury when, &c. and says nothing in bar, &c. of the aforesaid action of the said A. whereby the said A. remains therein undefended by the said C. therefore it is considered that the said A. recover against the said C. his said term yet to come of and in the said tenements aforesaid, with the appurtenances, and that the said A. ought to recover his damages by reason of the said trespass and ejectment aforesaid, but because the court of our said lord the king here doth not know what damages the said A. hath sustained by reason, &c. the sheriff is commanded, that he diligently inquire by the oath of twelve good and lawful men of his bailiwick, what damages the said A. hath sustained by reason of the trespass and ejectment aforesaid, as for his costs and charges laid out by him about his suit in this behalf, and that he shall make appear by the inquisition which he shall take thereof to the justices of our said lord the king at Westminster, on , under his seal, and the seals of those by whose oath he shall take such inquisition; the same day is given to the said A. here, &c. and upon this the said A. prays a writ of our lord the king to be directed to the sheriff of the county aforesaid, to cause him to have possession of his said term yet to come of and in the tenements aforesaid, with the appurtenances, and it is granted to him returnable here at the term aforesaid, &c.

Nil dicit in eject-  
ment in C. B.

The like with  
damages remit-  
ted in C. B.

[The same as above till] Whereby the said A. remains therein against the said C. his said term yet to come of and in the tenements aforesaid, with the appurtenances, and his damages by reason of the trespass and ejectment aforesaid to be adjudged to him, &c. and thereupon the said A. here in court freely releases unto the said C. as well all and every the damages, costs, and charges which might or ought to be adjudged to the same A. by reason of the trespass and ejectment aforesaid, as well all and every the judgments and executions to be had of or for the same; therefore the said C. is freed and acquitted from the same, and may go thereof with day, &c.; and upon this the said A. prays a writ of our lord the king to be directed to the sheriff of the said county aforesaid, to cause him to have possession of his said term yet to come of and in the tenements aforesaid, with the appurtenances, and it is granted to him returnable here, &c.

Entry of final  
judgment, with  
a suggestion of  
the death of one  
of the plaintiff  
after the writ of  
enquiry, and be-  
fore final judg-  
ment.

[AFTER the award of the writ of enquiry go on as follows]: At which day comes here the said J. by his attorney aforesaid, and the sheriff of the said county of Middlesex, to wit, T. H. esquire and J. S. esquire, now returns here a certain inquisition taken before him at , in the said county of Middlesex, on the day of , in the year of, &c. the now king, by the oath of twelve good and lawful men of his bailiwick, by which it is found that the said M. and J. have sustained damages by reason of the premises, besides their costs and charges by them laid out about their suit in this behalf, to two hundred and four pounds fifteen shillings, and for those costs and charges to twenty shillings; and thereupon the said J. gives the court here to understand and be informed that the said M. since the last continuance of the plea aforesaid, and before this day, to wit, on the , in the ninth year, &c. at Westminster aforesaid died; wherefore it is considered by the court here that there be no further proceedings in this plea at the suit of the same M. and thereupon the said J. prays judgment of and upon the premises aforesaid; it is therefore considered in and by the court here that the said J. do recover against the said R. the damages aforesaid, by the inquisition aforesaid in form aforesaid found to two hundred and five pounds five shillings, and also nine pounds fifteen shillings awarded to the said J. and with his silent by the court here for the costs and charges aforesaid by way of increase, which said damages amount in the whole to two hundred and fifteen pounds; and the said R. is in mercy, &c.

Mercy.

Judgment for  
not producing  
the record upon  
a plea of *nil tiel*  
record, and an  
entry of the sug-  
gestion of the  
death of one of the

AND now at this day, that is to say, on Monday next after in this same term, which day was given by the said court of our lord the king now here for the said Charles to produce the record by him to above in pleading allowed before our said lord the king come the said James by his said attorney, and the said

Charles,

Charles, although solemnly demanded in open court to appear and bring forth the said record, cometh not, nor bringeth forth the same, but therein wholly maketh default; and thereupon the said James gives the court here to understand and be informed that the said M. since the last continuance of the plea aforesaid, and before this day, to wit, on \_\_\_\_\_, in the ninth year, &c. at Westminster aforesaid died; wherefore it is considered by the court here that there be no further proceedings in this plea at the suit of the said M. and thereupon the said James prays judgment of and upon the premises aforesaid; wherefore it is considered by the said court of our said lord the king now here that the said James ought to recover against the said C. his damages sustained by reason of the premises; but because the said court of our said lord the king now here doth not know what damages the said James hath in this behalf sustained, therefore the sheriff of the said county of Middlesex is commanded that by the oath of twelve honest and lawful men of his bailiwick he diligently enquire what damages the said James hath sustained, as well by reason of the said Charles not performing the several promises and undertakings aforesaid as for his costs and charges laid out by him about his suit in this behalf, and that the said sheriff should cause the inquisition which he should take thereon to be before his majesty on the morrow, &c. wherefore his said majesty should then be in England, under his seal and the seals of those by whose oaths he should take such inquisition; at which day, before our said lord the king at Westminster, cometh the said J. by his attorney aforesaid, and the said sheriff, namely, \_\_\_\_\_ esquire, and \_\_\_\_\_ esquire, now returns a certain inquisition taken before him at \_\_\_\_\_, the, &c. at Westminster, in the said county, on the, &c. in the ninth year, &c. by the oaths of twelve good and lawful men of his bailiwick, by which it is found that the said James hath sustained damages by reason of the premises, besides his costs and charges by him about his suit in this behalf laid out to \_\_\_\_\_ pounds, and for those costs and charges to twenty-one shillings; therefore it is considered that the said James recover against the said Charles his damages aforesaid to \_\_\_\_\_ pounds, by the inquisition aforesaid in form aforesaid found, and also \_\_\_\_\_ pounds adjudged by the court here to the said James at his own request for increase of his said costs and charges, which said damages amount in the whole to \_\_\_\_\_ pounds, and the aforesaid, &c. in mere; &c.

In the Common Pleas, Trinity Term, 30. Geo. III.

LONDON, to wit. Joseph Wallis filed his bill as of last Easter term against James Cleator, gentleman, one of the attorneys of the court of our lord the king of the bench, present here in court in his proper person, in a plea of trespass on the case, to which said bill the said James Cleator duly appeared in his proper person as of the same Easter term in the same court here, but the said Joseph Wallis doth not further prosecute the same bill; therefore

Judgment of ~~non~~  
pros. for an attorney in C. B. for not declaring after filing a bill against him there:

fore

fore it is considered by the court here that he and his pledges for the prosecution be in mercy, &c.; the names of the said pledges are John Doe and and Richard Roe; and the said James is from hence and for ever discharged without a day, &c.: It is also considered that the said James recover against the said Joseph pounds, by the discretion of the justices of the court of the lord the king of the bench here, according to the form of the statute in such case made and provided, at his request adjudged to him for his costs and charges sustained by him about his defence in this behalf, &c.

Judgment in  
B. R. in *assump-*  
*pt* against two  
executors where  
both join in *non*  
*assumpsit*, both  
plead *plene ad-*  
*ministravit*; and  
one pleads, not  
executor, and  
never had assets,  
upon all which  
issues the plain-  
tiff obtained a  
verdict.

THEREFORE it is considered that the said John Fuggle reco-  
ver against the said Elizabeth and Andrew their damages aforesaid,  
by the jury aforesaid, in form aforesaid assised, and also forty-four  
pounds thirteen shillings for his costs and charges aforesaid to the said  
John by the court of our lord the king now here adjudged of in-  
crease, with his assent, which said damages, in the whole, amount  
to sixty-seven pounds ten shillings, of the goods and chattels which  
were of the said Thomas Bolton at the time of his decease, being  
in the hands of the said Elizabeth and Andrew to be administered,  
to be levied if they have so much thereof in their hands to be ad-  
ministered; and if they have not so much in their hands to be ad-  
ministered, then the said sum of twenty pounds seventeen shillings,  
parcel of the said damages, and so as aforesaid assised, on occasion  
of the non-performance of the aforesaid promises and undertakings,  
to be levied of the proper goods and chattels of the said Elizabeth;  
and the sum of forty-six pounds thirteen shillings, residue of the  
said damages (being the costs and charges aforesaid), to be levied  
of the proper goods and chattels of the said Elizabeth and Andrew;  
and that the said Elizabeth and Andrew are in mercy, &c.

*vide* 1. Roll. Abr. 932. 5 Com. Dig. 3 Danv. 405. 6-vt. H. 6. 37. b. 1. Rol.  
209. Went. Off. of Exec. c. 15. Towns- Abr. 932. Cro. Jac. 647. 671. Palm.  
hend's 1st Book c1 Judgment, 22. 200. 314,

Declaration in  
test on bond,  
by executrix of  
executor of obli-  
tion, against hus-  
band and wife,  
executrix of for-  
mer husband,  
obligor; plea,  
*plene adminis-*  
*travit*; replication,  
taking judgment  
of the sl. and  
be on *plene ad-*  
*ministravit* præ-

TAYLOR, WIDOW, EXECUTRIX, } —, to wit. And the  
against } said Mary, executrix as  
ROSE AND HIS EXECUTRIX. } aforesaid, as to the said sum  
of five pounds, which the said John and Sarah have above ac-  
knowledged to have in the hands of the said Sarah, pray judgment,  
and that the said sum of five pounds, together with her damages,  
by reason of the detention of the said five pounds, to be adjudged  
to her, &c.; therefore it is considered that the said Mary recover  
against the said John and Sarah the said five pounds of the goods  
and chattels which belonged to the said William Rose, deceased,  
and that the said John and Sarah, executrix as aforesaid, in mercy,  
&c.; and as to the residue of the said debt above demanded, the  
said Mary, executrix as aforesaid, says, that she, by reason of any  
thing above alledged, ought not to be precluded from having and  
maintain-

maintaining her aforesaid action thereof against them the said John and Sarah; because as to the said plea of the said J. and Sarah above pleaded, the said Mary says, that on the day of exhibiting of the said Mary, to wit, on the sixth day of November, in the year of Our Lord 1798, the said Sarah had besides, and above the goods and chattels aforesaid, to the value of the said five pounds, divers goods and chattels which belonged to the said William Rose deceased, at the time of his death, in the hands of the said Sarah to be administered, to the value of the residue of the said debt above demanded, whereby the said Sarah might have satisfied the said Mary thereof, to wit, at London aforesaid, in the parish and ward aforesaid; and this the said Mary prays may be enquired of by the country; and the said John and Sarah do so likewise, &c.; and because it is convenient that there be but one taxation of damages in this behalf if judgment should be given for the said Mary for the residue of the said debt above demanded, therefore let the taxation of damages for the non-payment of the said five pounds which the said John and Sarah acknowledge to be in the hands of the said Sarah, stay until the issue aforesaid between the parties aforesaid above joined be tried and determined; and to try that issue let a jury come before the lord the king at Westminster, on next after and who neither, &c. to recognize, &c. because as well, &c. the same day is given to the parties aforesaid there, &c.

THOMAS BARROW.

## INTERROGATORIES.

In the King's Bench.

INTERROGATORIES to be exhibited for the examination of <sup>It</sup> Peter Maxwell, a witness, to be produced, sworn, and examined on the part and behalf of the said Thomas Eldred and James Stuart, in a certain cause depending, wherein the said Thomas Eldred and James Stuart are plaintiffs, and William Skinner the elder, William Skinner the younger, and Alice Skinner, are defendants, before the lord chief justice, or one other of the justices of his majesty's court of K. B. pursuant to a rule of the said court, made on Monday next after five weeks from Easter day in the thirty-second year of the reign of king George the Third.

1st, Did you on or about the month of October last belong to a certain ship or vessel, called the Adventure? If yea, who were or was the owner or owners thereof, and who was the captain and commander thereof? And of what number did the crew of the said ship consist? What station or office did you hold in the said ship? Where was the said ship or vessel at that time, and had the said ship any, and what cargo on board, and on what voyage was she bound? 2d. Did the said ship or vessel, called the Adventure, sail and proceed upon the voyage described in your answer to the first interrogatory? If yea, when did she so sail? And had she or had she not the aforesaid cargo on board at the time of her sailing, and of the accident which afterwards befel the said ship? 3d. Did T any

## INTERROGATORIES—

any and what accident befall and happen to the said ship or vessel and cargo in and during the aforesaid voyage? If yea, describe the same particularly; and if the same was occasioned by any other ship or vessel running foul of her? Was the said accident occasioned by the wilfulness, carelessness, or neglect of the mariners on board the said ship, or by any other, and what means? Set forth the same particularly and minutely, and your reasons for the same; and describe the situation of the two ships respectively, and the state of the winds at that time, and be very particular in stating the damages sustained by the said ship and cargo; set forth the same and all that you know respecting the same at large.

W. BALDWIN.

INTERROGATORIES to be administered to Thomas Townshend, a witness, to be produced, sworn, and examined on the part and behalf of David Campigne, plaintiff, against Christopher Martino, defendant, before \_\_\_\_\_, one of the justices of his majesty's court of K. B. pursuant to a rule of the said court, made on \_\_\_\_\_ next next after \_\_\_\_\_, in the twenty-ninth year of the reign of king George the Third.

Do you know the parties, plaintiff and defendant, in the title of these interrogatories named, or either, and which of them? And how long have you known them, or either of them respectively declare. 2dly, Did you, or did you not, in the month of May 1785, or at any other, or what time, and how long before or since, know a certain ship or vessel called the Charming Nancy? If yea, of what built and burthen was the said ship or vessel, to what port did she belong, who were the owner or owners and master thereof, and where did they severally reside? 3dly, Did you or did you not ever, and for how long, serve on board the said ship or vessel, called the Charming Nancy? If yea, in what capacity, from what port, upon what voyage, or when in particular did you first set sail, and up to what time did you continue on board her, in what condition was the said ship or vessel at the time of her setting sail upon such your last voyage on board her, how long before then, in what manner, and at what expence had she been repaired to your knowledge, and how was she manned, furnished, and provided for such voyage? 4thly, Was or was not any examination made into the state and condition of such ship, and her fitness for such your last voyage on board her, at any and what time previous to setting sail thereupon? By whom, under whose orders, or by what authority (if at all) was such examination made, and did it take place on any particular occasion, or in consequence of any general usage of the port from whence she sailed, or how otherwise? 5thly, Were any, and what goods laden on board the said ship or vessel for such voyage, or otherwise? Did you or did you not at any time, and when, take any or what account or notice of such goods, or any of them, and are you now by any and what means enabled

enabled to particularize the same, when, where, and by whom were such goods severally laden on board the said ship or vessel? Had you or had you not any, and what knowledge of the respective quantities or qualities of such goods, or any of them? And if so, how did you acquire your knowledge thereof? 6thly, Did any, or what loss or accident happen to the said ship or vessel and goods, and to either of them, in the course of your last voyage on board her, or otherwise? If yea, when, where, at what distance from land did such loss or accident happen, how was the same occasioned, and what were the consequences thereof? Set forth the matters inquired after by this interrogatory fully and at large. 7thly, Look upon the paper writing produced and read to you at this time, and your examination marked with the letter A. purporting to be a protest, and subscribed amongst other signatures thereto with the letters "Thomas Townson," by whom were such letters written, at what time and place, and for what purpose was such paper writing prepared and signed, as you know or believe? Did you or did you not at any time, and when, see the same signed, or in any other way, and how authenticated by some, and what other persons by name? If yea, state who those persons severally were, and are the contents of such paper writing true or false. [Set forth the same and all that you know respecting the same at

Sixth.

Seventh.

CLARK } AND as to the said two pounds five shillings the said  
*against* } Arthur freely accepts and takes the same out of court  
 COAFEE. } here; therefore as to that sum the said Arthur is satisfied, and the said Francis is thereof acquitted, &c.; and to try the issue above joined between the said parties let a jury thereupon come before our lord the king at Westminster, on next after by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. the same day is given to the said parties at the same place.

Acceptance and satisfaction entered on record on payment of money into court.

Before the Mayor and Aldermen, in the chamber of the Guildhall, in the city of London.

SAMUEL Bowring and Samuel Triste, by William Nash their attorney, demand of Rossiter Hoyle, surviving partner of John Small, deceased, two hundred and thirty-four pounds three shillings and elevenpence of lawful money of Great Britain, which he owes to and unjustly detains from the said plaintiffs; for that whereas on the first of October in the twenty-eighth year of the reign of his present majesty king George the Third, at the parish of St. Helen, London, for and in consideration of divers sums of money before that time due and owing from the said Rossiter Hoyle and John Small to the said plaintiffs in the lifetime of the said John Small, and then in arrear and unpaid to the said Rossiter Hoyle and John Small, granted and agreed to pay to the said plaintiffs the said sum of two hundred and thirty-four pounds three shillings and elevenpence where and when the said R. Hoyle and J. Small should

City attachment

## FORMS OF COURTS BELOW—CITY ATTACHMENT—

be thereunto requested ; yet the said R. H. (the now defendant) and J. Small, or either of them, in the lifetime of the said J. Small, nor the said now defendant since the death of the said John Small, (although often required) have not, nor hath either of them paid the said two hundred and thirty-four pounds three shillings and elevenpence, or any part thereof, to the said plaintiffs or either of them, to the damage of the said plaintiffs of twenty shillings, and therefore they bring their suit, &c. Pledges, &c.

Process of attachment.

And the said plaintiffs by their said attorney pray process according to the custom, &c. and it is granted, &c. and thereupon it is commanded by the court to Leslocke Peacock, one of the serjeants at mace of the said court, that he, according to the custom of the said city, summon by good summoners the said defendant to appear here in this court to answer the said plaintiffs in the plea aforesaid, and that he return and certify what, &c. ; and afterwards, to wit, at the same court, the said serjeant at mace returned and certified to the said court according to the custom, &c. that the said defendant had nothing within the said city or the liberties thereof, whereby he can be summoned, nor was to be found within the same, and at the same court the said defendant was solemnly called, and did not appear, but made default ; and now at this same court it is alleged by the said plaintiffs, by their said attorney, that Samuel Chollett owes to the said Rossiter Hoyle, surviving partner of J. Small, deceased, two hundred and thirty-four pounds three shillings and elevenpence, in monies numbered, as the proper monies of the said defendant, and now has and detains the same in his hands and custody ; and therefore the said plaintiffs by their said attorney pray process, according to the custom, &c. to attach the said defendant by the said two hundred and thirty-four pounds three shillings and elevenpence, so being in the hands and custody of the said Samuel Chollett as aforesaid, so that the defendant may appear in this court here to be holden, &c. to answer the said plaintiffs in the plea aforesaid, whereupon it is commanded by the court to the said serjeant at mace, that he, according to the custom, &c. attach the said defendant by the said two hundred and thirty-four pounds three shillings and elevenpence so being in the hands and custody of the said Samuel Chollett as aforesaid, and the same in his hands and custody defend and keep, so that the said defendant may appear in this court here to be holden, &c. to answer the said plaintiffs in the plea aforesaid, and that the said serjeant at mace return, &c. ; and afterwards, to wit, at a court holden, &c. on Friday the sixth day of November aforesaid, the said plaintiffs, by their said attorney, appear, and the said serjeant at mace returned and certified to the same court that he by virtue of the said precept, on the fifth day of November, between the hours of four and five in the afternoon, had attached the said defendant by the said two hundred and thirty-four pounds three shillings and elevenpence so being in the hands and custody of the said Samuel Chollett, and the same

same defended, &c. according to the custom, &c. so that the said defendant might appear to this court to answer the said plaintiffs in the plea aforesaid; and thereupon the said defendant at the same court was solemnly called and did not appear, but made a first default, which said first default at the same court is recorded, according to the custom, &c. and a further day is given by the court to the said defendant to appear at the next court, to be holden, &c. on Saturday the seventh day of November, at which said next court, holden, &c. the said plaintiffs, by their said attorney, appear and offer themselves against the said defendant in the plea aforesaid, and thereupon at the same court the said defendant was again solemnly called and did not appear, but made a second default, which said second default is recorded, &c. [a third and fourth default similar on the ninth and tenth of Nov.] which said fourth default is recorded, &c.; and thereupon after the said four defaults recorded by the court against the said defendant in the plea aforesaid, according to the custom, &c. the said plaintiffs, by their said attorney, pray process, according to the custom, &c. to warn the said Samuel Chollett, the garnishee, to be and appear in this court to shew cause, &c.; whereupon at the same court holden, &c. it is commanded by the same court to the said serjeant at mace, that he, according to the custom of the city, warn and make known to the said garnishee to be and appear in this court to be holden, &c. on Wednesday the eleventh day of November aforesaid, to shew cause, &c. why the said plaintiffs ought not to have execution of the said two hundred and thirty four pounds three shillings and elevenpence, so attached in his hands and custody as aforesaid, and that the said serjeant at mace return and certify at the same court what, &c. the same day is given by the said court to the said plaintiffs to be there, &c.; at which said court, holden, &c. the said plaintiffs, by their said attorney, appear, and the said serjeant at mace hath returned and certified to the said court that he, by virtue of the said precept to him directed, and according to the custom, &c. had warned and made known to the said garnishee to be and appear at this same court to shew cause, &c. as above commanded; and thereupon, at this same court the said garnishee was solemnly called, and appears, and appoints in his stead Thomas Emerson his attorney.

Before the Mayor and Aldermen in the chamber of the Guildhall  
of the city of London.

AND the said Samuel Chollett the garnishee, by Thomas Emerson his attorney, on the twenty-third day of November, in the year above said, comes and says that the said plaintiff ought not to have execution against him of the said two hundred and thirty-four pounds three shillings and elevenpence in monies numbered, so attached as aforesaid, or of any part thereof, because he says that at the time of the making the said attachment or at any time since, he had not owed to or detained from, or yet

ad Plea, a judgment recovered in the same court for the same sum.

has, owes to, or detains from the said Rossiter Hoyle, surviving partner of the said John Small deceased, the defendant named in the bill, original, and attachment aforesaid, the said two hundred and thirty-four pounds three shillings and elevenpence, or any part thereof in manner and form as the said plaintiffs by their bill, original, and attachment aforesaid have above supposed; and of this he puts himself upon the country, &c. And for a further plea in this behalf the said Samuel Chollett by leave of the court here to him for that purpose granted according to the form of the statute in such case made and provided says, that the said plaintiffs ought not to have execution against him of the said two hundred and thirty-four pounds three shillings and elevenpence so attached as aforesaid, or of any part thereof, because he says that the said plaintiff heretofore, to wit, on the sixth day of August, in the twenty-ninth year of the reign of his present majesty, at a court then holden before the mayor and alderman of the city of London, in the chamber of the Guildhall of the city of London, according to the custom of the said city, affirmed their certain bill original against the said Rossiter Hoyle, as such surviving partner of the said John Small deceased, in a plea of debt upon demand for two hundred and thirty-four pounds three shillings and elevenpence, and then and there found pledges to prosecute the said bill original, and such proceedings were thereupon had in the said court before the said mayor and alderman of the said city in the chamber aforesaid, according to the custom of the said city, at the prayer of the said plaintiffs, that the said Samuel Chollett was duly warned according to the custom aforesaid to be and appear at a court to be holden before the said mayor and alderman on Wednesday the eleventh day of November, in the year aforesaid, to shew cause why the said plaintiffs ought not to have execution of the sum of two hundred and thirty-four pounds three shillings and elevenpence attached in his hands and custody as the proper monies of the said Rossiter Hoyle, as such surviving partner as aforesaid, upon and by virtue of the bill original in this plea mentioned: And the said Samuel Chollett further says, that having duly appeared at the said last mentioned court as garnishee upon the bill, original, and attachment aforesaid, he the said Samuel Chollett, on the third day of October now last past pleaded, that at the time of the making the said attachment, or at any time since, he had not owed to or detained from the said Rossiter Hoyle, as such surviving partner as aforesaid the said sum of two hundred and thirty-four pounds three shillings and elevenpence, or any part thereof, and that the said plaintiffs having joined issue upon the said plea, such proceedings were thereupon duly had in the said court; according to the custom of the said city, that issue so joined afterwards, to wit, on Wednesday the fourth day of November now last past at a court then holden before the mayor and alderman of the said city of London, in the chamber of the Guildhall of the said city, came on to be and was tried by a jury duly impanelled and sworn for that purpose, who upon their oaths found a verdict for the said Samuel

Samuel Chollett upon the said issue, whereupon it was considered by the court there that the said plaintiffs should take nothing by their bill, original, and attachment as aforesaid, but that the said Samuel Chollett should go acquitted thereof without day, &c. as by the record of the proceedings aforesaid still remaining in the said court in full force and effect may more fully appear: And the said Samuel Chollett further says, that since the time of his having so pleaded as aforesaid no monies whatsoever have come to his hands or custody, the property of the said Rossiter Hoyle, as such surviving partner as aforesaid; and this he is ready to verify; wherefore he prays judgment if the said plaintiffs ought to have execution against him of the said two hundred and thirty-four pounds three shillings and elevenpence so attached as aforesaid, or any part thereof: And for a further plea in this behalf the said Samuel Chollett by like leave of the court here to him for this purpose granted according to the form of the statute in such case made and provided says, that the said plaintiffs ought not to have execution against him of the said two hundred and thirty-four pounds three shillings and elevenpence so attached as aforesaid, or of any part thereof, because he says, that before the making of the said attachment, to wit, on the fifth of November in the thirtieth year of the reign of his present majesty, between the hours of eight and nine in the forenoon of the same day, the said R. H. by the name of R. H. surviving partner of John Small, deceased, at a court then holden before the mayor and aldermen of the city of L. in the chamber of the Guildhall of the city of London, according to the custom of the said city, affirmed a certain bill original against the said Samuel Chollett, at the suit of him the said R. H. in a plea of trespass upon the case to his damage of three thousand pounds of lawful money of Great Britain, and then and there found pledges to prosecute his said bill original, that is to say, John Doe and Richard Roe: And the said Samuel Chollett further says, that the said sum of two hundred and thirty-four pounds three shillings and elevenpence so attached as aforesaid, in part of the said sum of three thousand pounds, for which the said bill original was affirmed against him at the suit of the said R. Hoyle as aforesaid; and this he is ready to verify; wherefore he prays judgment if the said plaintiff ought to have execution against him of the said two hundred and thirty-four pounds three shillings and elevenpence so attached in his hands and custody as aforesaid, or any part thereof.

3d Plea, that defendant recovered in the same court against garnishee.

S. MARRYAT.

DEMURRERS.

GUNSTON } AND the said Robert, by A. B. his attorney, Demurrer.  
at suit of } comes and defends the force and injury when, &c.

KRAY. } and says, that the declaration aforesaid and the matters therein contained in manner and form as the same are above

Cause for that declaration is entitled of Hil-

lary Term, and relates to the first day of term of that term twenty-third of January, whereas causes of action had not accrued before the tenth of February subsequent.

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stated

stated and set forth are not sufficient in law for the said William to have his aforesaid action thereof maintained against him, and that he the said Robert is not under any necessity nor in anywise bound by the law of the land to answer the same; and this he is ready to verify; wherefore for want of a sufficient declaration in this behalf he prays judgment, and that the said William may be barred from having his aforesaid action thereof maintained against him; and for causes of demurrer in law the said Robert, according to the form of the statute in such case made and provided, sets down and shews to the court here the causes following, that is to say, for that although the said declaration is intituled generally of Hilary term in the thirtieth year of the reign of his present majesty, which refers and relates to the first day of that term, being the twenty-third day of January in the same year, yet the several trespasses in the said declaration mentioned are thereby alledged to have been committed on the tenth day of February in that year, which is subsequent to the said time of the exhibiting of the declaration of the said William against the said Robert, and for that it appears by the said declaration that the pretended cause of action therein specified had not, nor had either of them accrued to the said William at the time of the exhibiting of his said bill in manner aforesaid, and also for that the said declaration is in various other respects uncertain, defective, and informal, &c.

SAMUEL MARRYAT.

Trinity Term, 29. Geo. III.

Demurrer, for that plaintiff has brought action as administratrix, but does not alledge that J. F. died intestate, or by whom such administration was committed, or at what time, or at what place.

ARCHELL

at suit of

FISHER, ADMINISTRATRIX.

AND for causes of demurrer

in law according to the form of

the statute, &c. the said Thomas

sets down and shews to the court here the causes following, that is to say, for that although the said Ann has brought this action as administratrix of all and singular the goods and chattels, rights and credits which were of the said John Fisher, deceased, at the time of his death, yet she has not in or by her said declaration alledged that the said John Fisher died intestate, or shewn under what other circumstances administration thereof was granted to her, and for that it is not in or by the said declaration alledged or shewn by whom such administration was committed to the said Ann, or that the same was committed to her by any person having authority so to do; and for that it is not stated at what time or at what place such administration was granted; and also for that the said declaration is in various other respects uncertain, insufficient, and informal, &c.

The declaration in this cause is certainly objectionable on at least one of the grounds pointed out by the demurrer; if the plaintiff should get a judge's order to

amend, the defendant must plead *de non* within two days after the making of the amendments and payments of costs.

SAMUEL MARRYAT.

GEORGE

Trinity Term, 29. Geo. 3.

GEORGE WILSON

*at suit of*

ROBERT WILSON.

} AND the said G. by A.B. his attorney,

} comes and defends the wrong and injury

} when, &c. and says, that the said declaration

aforsaid, and the matters therein contained, in manner and form as the same are above stated and set forth, are not sufficient in law for the said Robert to have his aforsaid action thereof maintained against him, and that he the said George is not under any necessity, nor in any wise bound by the law of the land to answer the same; and this he is ready to verify; wherefore for want of a sufficient declaration in this behalf he prays judgment, and that the said Robert may be barred from having his aforsaid action thereof maintained against him: And for causes of demurrer in law, the said George, according to the form of the statute in such case made and provided, sets down and shews to the court here the causes following, that is to say, for that although the said Robert hath declared against the said George, as being in the custody of the sheriff of the county of Middlesex, yet the said Robert hath not by his said declaration shewn by virtue of what writ or process the said George was in the custody of the said sheriff as he ought to have done, neither doth it by the said declaration appear out of what court or at whose suit such writ or process issued; and also for that the said declaration is in various other respects uncertain, insufficient, and informal, &c.

Demurrer, for that declaration alleges defendant to be in custody of the sheriff of Middlesex, but does not shew by virtue of what writ or process as he ought to have done.

The case of Williams against Wilks, r. Wilk. 119 is a direct authority in support of the demurrer, though I should

think it clearly maintainable upon the statute 4. & 5. W. & M. c. 21. independently of any authority.

Hilary Term, 30. Geo. III.

LONDON, to wit. William Cook puts in his place Samuel

Fosket his attorney against Joseph Irish, as executor of the last will and testament of John Irish, deceased, in a plea of trespass upon the case.

Warrants for plaintiff.

London, to wit. The said Joseph Irish puts in his place James Newland his attorney, at the suit of the said William in the plea aforsaid.

For defendant.

London, to wit. Be it remembered that in Easter term last past, before our lord the king at Westminster, came William Cook, by Samuel Fosket his attorney, and brought in the court of our said lord the king then there his bill against Joseph Irish, executor of the last will and testament of John Irish, deceased, being in the custody of the marshal of the lord the king, before the king himself, of a plea of trespass on the case; and there are pledges for the prosecution, to wit, John Doe and Richard Roe, which said bill follows in these words, to wit. London, to wit: William

Memorandum.

William Cook complains against Joseph Irish, executor of the last will and testament of John Irish, deceased, being in the custody of the marshal of the Marshalsea of our lord the now king, before the king himself; for that whereas the said John Irish in his lifetime, &c. &c. [Several counts on an *indchitatus assumptit*, by the testator in his lifetime to the plaintiff, and breach in non payment of the money, either by the testator or by the defendant after his death as his executor.]

Plea after impar-  
lance, protesting  
that John J. did  
not promise, &c.  
that he defend-  
ant was never  
executor.

And now at this day, that is to say, on Saturday next after eight days of St. Hilary in this same term, until which day the said Joseph had leave to imparl to the said bill, and then to answer the same, &c. as well the said William by his said attorney as the said Joseph by James Newland his attorney, do came before our lord the king at Westminster, and the said Joseph defends the wrong and injury when, &c. and says that the said William ought not to have or maintain his aforesaid action against him the said Joseph; because protesting that the said John J. deceased, in his lifetime, did not make any such will or testament; nevertheless for plea in this behalf the said Joseph saith that he was not nor is executor of the last will and testament of the said John J. deceased, nor ever administered any goods or chattels which were of the said John J. deceased at the time of his death, as executor of the will of the said John J. deceased, after the death of the said John J. deceased, and this the said Joseph is ready to verify; wherefore he prays judgment if the said William ought to have or maintain his aforesaid action thereof against him.

H. RUSSEL.

Replication, and  
issue,

And the said William says, that he by reason of any thing by the said Joseph in his said plea above alledged, ought not to be barred from having his aforesaid action thereof maintained against the said Joseph; because he the said William says, that the said Joseph, as executor of the last will and testament of the said John J. after the death of the said John J. did administer divers goods and chattels which were of the said John J. at the time of his death, to wit, at L. in the parish and ward aforesaid; and this the said William prays may be enquired of by the country, and the said Joseph doth the like; therefore let a jury come before our lord the king at Westminster on Wednesday next after from the day of Easter, by whom, &c. who neither, &c. to recognize, &c. because as well, &c. the same day is given to the said parties there, &c.

Venire.

Continuance.

Afterwards the process being continued between the parties aforesaid of the plea aforesaid, by the jury between them being respited before our lord the king at Westminster until Wednesday next after three weeks from the day of Easter, unless the king's right trusty and well-beloved Lloyd lord Kenyon, his majesty's chief justice to hold pleas before the king himself, shall first come on

on Tuesday, the twenty-seventh of April, at the Guildhall of the city of London, according to the form of the statute in such case made and provided for default of the jurors, because none of them appear: And now at this day, that is to say, on the said *Wednesday* next after *three weeks from the day of Easter* before our said lord the king at Westminster, come the parties aforesaid by their attornies aforesaid, and the said chief justice, before whom the said issue was tried, sends him the record before him had in these words, to wit: Afterwards, that is to say, on the day and at the place within mentioned, before the right honourable Lloyd lord Kenyon, the chief justice within named, Roger Kenyon, esquire, being associated unto him according to the form of the statute, &c. come as well the within-named William Cook as the within-named J. by their respective attornies within written; and the jurors of the jury whereof mention is within made being impanelled and drawn by ballot, according to the form of the statute in such case made and provided and called over, come, and to speak the truth of the matters within contained being tried and sworn, on their oath say, that the within-named Joseph J. as executor of the last will and testament of the within-named John J. after the death of the said John J. did administer divers goods and chattels which were of the said John J. at the time of his death, in manner and form as the said William Cook hath within in replying alledged, and they assess the damages of the said William Cook on occasion of the within contents, besides his costs and charges by him expended about his suit in this behalf to eight pounds eight shillings, and for those costs and charges to forty shillings; therefore it is considered by the court here that the said William Cook recover against the said Joseph J. as such executor as aforesaid, the damages and costs by the jury in form assessed, and also pounds for his costs and charges by the said court here adjudged, of increase to the said William Cook with his assent, which said damages, costs, and charges, amount in the whole to pounds, to be levied of the goods and chattels which were of the said John J. deceased, at the time of his death in the hands of the said Joseph J. to be administered, if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered, then to be levied of the proper goods and chattels of the said Joseph J. and the said Joseph J. in mercy, &c.

Postea.

Judgment signed  
10th of May  
1790.

*De bonis testatoris  
fidei.*  
1. Roll. Abr.  
930. l. 40. and  
933. l. 22.

Mercy,

If the plaintiff should have occasion to  
fue out execution, I think that it should  
not be in the common form, but that it

should pursue the language of the judg-  
ment.

S. MARRYAT,

Michaelmas Term, 26. Geo. III. . .

LONDON, to wit. Catherine Symmonds puts in her place Warrants for  
William Mills her attorney, against Hannah Woodward, execu- plaintiff.  
trix of the last will and testament of William Woodward  
her late husband, deceased, of a plea of trespass on the case.

H h 3

London,

for defendant. London, to wit. The said Hannah Woodward puts in her place John Barber her attorney, at the suit of the said Catherine of the plea aforesaid. London, to wit. Be it remembered that on Monday next after the morrow of All Souls in this same term, before our lord the king at Westminster, comes Catherine Symonds, by W. M. her attorney, and brings into the court of the said lord the king, before king himself now here, her certain bill against Hannah W. executrix of the last will and testament of W. W. her late husband, deceased, being of a plea of trespass on the case; and there are pledges for the prosecution, to wit, J. D. and J. R. which said bill follows in these words, to wit, London, to wit. Catherine S. complains of H. W. executrix of the last will and testament of William W. her late husband, deceased, being, &c.; for that whereas the said William W. in his lifetime, to wit, on the first of December 1781, at L. aforesaid, in the parish, &c. was indebted to the said Catherine in the sum of one hundred and ninety-eight pounds fifteen shillings of lawful, &c. for divers goods, wares, and merchandizes by the said C. before that time sold and delivered to the said W. W. at his special instance and request, and being so indebted, he the said W. W. in his lifetime, in consideration thereof afterwards, to wit, on the same, &c. against, &c. [Second Count, for one hundred and ninety-eight pounds fifteen shillings for money lent by plaintiff to testator]; yet the said William W. in his lifetime, and the said Hannah, executrix as aforesaid since his death, not regarding the said several promises and undertakings so made by the said William W. in his lifetime as aforesaid, but contriving and fraudulently intending craftily and subtilly to deceive and defraud the said Catherine in this behalf, have not, nor hath either of them, although often requested, paid the said several sums of money or either of them, or any part thereof to the said C. but to pay the same or any part thereof to the said C. the said W. W. in his lifetime, and the said Hannah, executrix as aforesaid since his death, have, and each of them hath hitherto wholly refused, and the said H. executrix, still refuses, to the damage of the said C. of one hundred and ninety-eight pounds fifteen shillings, and therefore she brings suit, &c.

*the adm.* And the said Hannah, by J. B. comes and defends the wrong and injury when, &c. and says that she cannot deny the said action or the said C. nor but that the said William W. in his lifetime, did undertake and promise in manner and form as the said C. hath above thereof complained against her, nor but that the said Catherine hath sustained damage by reason of the non-performance of his said promises and undertakings to one hundred and ninety-eight pounds fifteen shillings, as the said Catherine hath above in her declaration alledged; nevertheless the said Hannah saith that the said C. ought not to have or maintain her aforesaid action thereof against her to recover her said damages, except as to the goods

goods and chattels which were of the said William W. at the time of his death to the value of fifty shillings; because she saith, that she has fully administered all and singular the goods and chattels which were of the said William W. at the time of his death, and which have ever come to the hands of her the said Hannah to be administered, except goods and chattels to the value of fifty shillings, and that she hath not, nor on the day of exhibiting the bill of the said C. nor at any time since had any goods or chattels which were of the said William W. at the time of his death in her hands to be administered, except the said goods and chattels to the value of fifty shillings aforesaid; and this the said Hannah is ready to verify; wherefore she prays judgment if the said C. ought to have or maintain her aforesaid action thereof against her to recover damages aforesaid, except as to the goods and chattels to the value of fifty shillings, &c.

And hereupon forasmuch as the said Hannah hath not denied the <sup>Repl</sup> said action of the said Catherine, nor but that the said William W. <sup>prays</sup> in his lifetime did undertake and promise in manner and form as <sup>ment</sup> the said C. hath above thereof complained against her, nor but <sup>quando acciderint</sup> that the said C. hath sustained damages by reason of the non-performance of the said promises and undertakings in the said declaration mentioned to one hundred and ninety-eight pounds fifteen shillings, but hath admitted the same to be true, and hath above acknowledged that she hath goods and chattels which were of the said W. W. at the time of his death in her hands to be administered to the value of fifty shillings; and forasmuch as the said C. doth not deny but that the said Hannah hath not, nor on the day of the exhibiting of the bill of the said C. nor at any time since had any goods and chattels which were of the said W. W. at the time of his death in her hands to be administered, except the said goods and chattels to the value of fifty shillings as aforesaid, she said C. prays judgment and her damages aforesaid in form aforesaid acknowledged against the said Hannah, executrix as aforesaid, that is to say, fifty shillings, part thereof to be levied of the goods and chattels so remaining in the hands of the said Hannah to be administered as aforesaid, and the residue of the same damages to be levied of the goods and chattels which were of the said W. W. at the time of his death, and which shall hereafter come to the hands of the said Hannah to be administered, together with her costs and charges by her about her suit in this behalf expended, to be adjudged to her, &c.; therefore it is considered by the said court here that the said <sup>Judgment for</sup> C. recover against the said Hannah her damages aforesaid to one <sup>ed Nov. 1785</sup> hundred and ninety-eight pounds fifteen shillings in form aforesaid acknowledged, that is to say, fifty shillings parts thereof to be levied of the goods and chattels so remaining in her hands to be administered, and the residue of the said damages to be levied of the goods and chattels which were of the said W. W. at the time of his death, and which shall hereafter come to the hands of the said

Hannah to be administered, and also six pounds for her costs and charges by her about her suit in this behalf expended by the court of our said lord the king now here, adjudged to the said C. with her assent, to be levied of the goods and chattels which were of the said W. W. at the time of his death in the hands of the said Hannah to be administered, if she hath so much thereof in her hands to be administered, and if she hath not so much in her hands to be administered, then the said costs and charges to be levied of the proper goods and chattels of the said Hannah; and the said Hannah in mercy, &c.

S. MARRYAT.

The above judgment was confessed by the executrix pending an adverse action against her at the suit of a Mrs. Skutt, in order to give her a preference to the demand of the plaintiff Mrs. Woodward, by pleading her judgment to Skutt's action. The judgment was regularly docketed as for one hundred and ninety-eight pounds fifteen shillings damages, and six pounds costs, although the roll was not carried in but by a mistake of the serjeant, who drew the pleas to the adverse action, or of the attorney in filling up the blanks in the serjeant's draft it was pleaded as a judgment for six pounds only. The executrix having also pleaded the general issue to Skutt's action, he took judgment of future assets after satisfaction of the judgment pleaded, and having proceeded to trial on the general issue obtained a verdict thereon. In the year 1789, the executrix having possessed assets sufficient to satisfy the six pounds, and also the damages recovered by Skutt (though not sufficient for the one hundred and ninety-eight pounds fifteen shillings), Skutt brought a second action on the first recovery, suggesting a *devastavit*, until the which time the mistake in the plea had never been discovered, and it is therefore become a material question whether the consequence of such mistake to the executrix could then be coviated.

**OPINION.** With regard to entering the proceedings on the roll *now*, I do not see any particular purpose it is to answer, unless it be that of Mrs. Symmons's personal security against Mrs. Woodward; for I should think the entry in the book at the judgment office would be a sufficient document to authorize the court of common pleas to amend the pleadings in the action

at the suit of Mrs. Skutt, if they are disposed to allow of the amendment. I have, however, very little hopes of the court giving such indulgence as it seems from the report of the case of *Robinson and Raley*, 1. Burr. 216, and the quotation of it in 1. Term. Rep. 783, that the courts will not amend pleadings with all the acts of the parties themselves after trial. In the case of *Boniface and Walker*, 2. T. Rep. 126, an amendment was indeed allowed after verdict, but there it was done on occasion of the verdict being set aside. At any rate, the amendment here can be only on the terms of paying Skutt's costs at the time of pleading in the action at his suit, because he has proceeded to substantiate his demand by a trial, on account of there appearing upon the plea of this judgment to be a charge of only six pounds on the assets, and he probably would not have thought it worth his while to have been at the expense of the trial, had a prior judgment to the amount of above two hundred pounds been pleaded. The affidavits in support of the intended motion to amend should state if the facts are so, that M. s. Symmons's is a *bona fide* debt, that her judgment was in fact signed for one hundred and ninety-eight pounds fifteen shillings, besides six pounds costs, and so entered in the books at the judgment office; that Woodward's effects are not sufficient to satisfy such judgment; that the substitution of the one sum for the other in the plea to the first action at the suit of Skutt, was a mistake of the attorney then concerned, who is since dead, insolvent, and that the mistake was not discovered until the delivery of the declaration in the present action, suggesting a *devastavit*.

S. MARRYAT,

GEORGE

GEORGE the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, and so forth, to the recorder, bailiffs, and capital justices of the town or borough of Ludlow, in the county of Salop, greeting: We being willing for certain causes to be certified of a certain *plaint* in our court before you levied or affirmed against A. M. at the suit of H. F. on the demise of J. P. in a certain plea of trespass and ejectment of farm, command you and every of you that you send the said *plaint*, together with all things touching the same, by whatsoever names the parties may be called therein before us at Westminster on next after , so fully and entirely as it remains before you or any of you, together with this writ, that we may further do thereupon what shall seem right to be done. Witness Lloyd Lord Kenyon, at Westminster, the day of , in the thirty-second year of our reign 1792.

*Certiorari to inferior courts. Qu. If by *plaint* or *original*.*

Thef. Br. 68. Off. Br. 40.

GEORGE the Third, &c. to the keepers of our peace, and to our justices assigned to hear and determine divers felonies, trespasses, and other misdemeanors committed within our county of Dorset, and to every of them, greeting: We being willing for certain reasons that all and singular indictments of whatsoever trespasses, contempts, and assaults whereof W. E. is indicted before you (as it is said) be determined before us and not elsewhere, do command you and every of you that you or one of you do send under your seals or the seal of one of you before us at Westminster, immediately after the receipt of this our writ, all and singular the said indictments, with all things touching the same, by whatsoever name the said W. E. is called in the same, together with this our writ, that we may farther cause to be done therein what of right, and according to the custom of England, we shall see fit to be done. Witnesses, &c.

*Certiorari to justices of the peace to remove an indictment.*

By the Court.

BURROW.

At the instance of the prosecutor,  
By rule of Court.

[The execution of this writ appears in the schedule to the same writ annexed.]

DORSETSHIRE. I Richard Brodrippe, Esq. one of the keepers of the peace, and justice of our lord the king assigned to keep the peace within the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the same county committed by virtue of the writ to me delivered, do under my seal certify unto his majesty in his court of King's Bench the indictment of which mention is made in the same writ, together with all matters touching the same indictment. In witness whereof I the said R. B. have to these presents set my seal. Given at Dorchester, in the said county, the twenty second day

*Return.*

of February, in the ninth year of the reign of our sovereign lord George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, and so forth, and in the year of our Lord 1769.

Writ of summons against a peer.

GEORGE the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. to the Sheriff of Middlesex, greeting: We command you, that you cause to be summoned W. H. duke of (having privilege of parliament), that he be before us on next after of St. Hilary, to answer to Peter N. in a plea of trespass and criminal conversation with the wife of the said Peter, to his damage of ten thousand pounds, as he shall be able reasonably to shew that he ought to answer therein; and have there then this writ. Witness Lloyd lord Kenyon, at Westminster, the day of , in thirtieth year of our reign.

*Præcipe.*

Writ of Summons for Peter N. against W. H. duke of (having privilege of parliament).

Return on next after

A challenge to the array of a peer, with a de- AND now at this day, that is to say, on Monday the seventh day of August, in the fifteenth year of the reign of our sovereign lord the present king come as well the said Samuel, lord

jurors aforesaid empanelled and demanded come, and thereupon the aforesaid J. W. &c. &c. defendants, by A. B. their attorney, do challenge the array of the panel aforesaid, because they say, that the said Samuel lord bishop of Chester, the plaintiff is, and at the time of arraying the panel aforesaid, was one of the peers of the realm of Great Britain, having a voice and place in every parliament of Great Britain, and that the array of the panel aforesaid, was arrayed by R. D. esquire, sheriff of the county of Lancaster, no knight being named and returned on the same panel of the array aforesaid, as ought to have been done according to the law of the realm; and this they are ready to verify; wherefore they pray judgment and that the same panel may be quashed, &c.

D. POOLE.

Writter to the challenge.

And the said Samuel, bishop of Chester, by A. B. his attorney, saith, that the said challenge of the said defendants to the array of the panel aforesaid is not sufficient in law to quash the said array of the panel aforesaid; and that there is no necessity for him, nor is he obliged by the law of the land of this part of the kingdom of Great Britain called England, to answer to the said challenge in manner and form as it is above alledged; and this he

is

is ready to verify; wherefore he prays judgment, and that the array of the said panel may be affirmed, &c.

E. GIBSON.

And the said J. W. &c. &c. since that they have above alledge- Joinder to the  
ed sufficient matter in law in the said challenge by them above last demurrer.  
made to the array of the panel aforesaid to quash the array of the  
said panel, which they are ready to verify; which said matter the  
said Samuel, lord bishop of Chester, does not deny nor in any  
manner answer thereto, they as before pray judgment, and that  
the array of the said panel may be quashed, &c.

D. POOLE.

AND the said defendants, by A. B. their attorney, come, and Demurrer to an  
having heard the said indictment say, that our said lord the king indictment.  
ought not any further to impeach them the said defendants on oc-  
casion of the premises whereof they are by the said indictment ac-  
cused, because they say, that the said indictment, and the matter  
therein contained, are not sufficient in law to compel them the  
said defendants to answer thereto; and that no process upon the  
said indictment ought by the law be made against them the said  
defendants; and thus they are ready to verify; wherefore they  
pray the judgment of the court here, and that they may be dis-  
missed and discharged from the said indictment. V. LAWES.

AND now, that is to say, on Tuesday next after three weeks Demurrer to an  
of the day of St. Michael, in this same term, before our said lord indictment in  
the king at Westminster, cometh the said defendant, by A. B. his order for de-  
attorney, and having heard the indictment she saith, that she did fendant to ob-  
not think that our said lord the king ought any further to impeach tain judgment  
or trouble her the said defendant any further on occasion of the where he had  
premises aforesaid, because she saith that the said indictment, and made an end  
the matters therein contained, are not sufficient in law, and that with the profe-  
she need not, nor is she bound by the law of the land to answer cutor.  
thereto; wherefore for the insufficiency thereof she prays judg-  
ment, and that she may be dismissed and discharged by the court  
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 256. the power and government of France. Replication,  
 that he came to England under the safe conduct and  
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*Ibid.* 153  
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*Ibid.* 369. 373

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*Ibid.* 512

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1. R. P. B. R. 286

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1. R. P. B. R. 191

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DEMURRER.

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371. Plea, a bill filed in the same term by an informer, and judgment in bar. Demurrer and joinder.

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5. T. R. 150

Special verdict on an indictment against an officer of the palace court, for arresting a person not of the king's house-

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3. T. R. 735  
5. Burr. 2794

*Ibid.* 2788  
3 Burr. 1626  
1. Burr. 414

June 1669, sir R. A. and sir E. A. covenant to levy a fine,  
with proclamations, to sir E. C. and J. L. to the use of sir  
R. A. for life; remainder to sir R. A. his son, in tail male;  
remainder to sir R. the father, in fee. Eleventh and twelfth  
of June, conveyance to same uses; proviso for tenant in  
possession to grant leases for three lives, or twenty-one  
years; proviso for sir R. the father, to settle the premises  
on a second wife; same to sir R. A. the son. Covenant to  
levy a fine, with, &c. to same uses. Trinity term 1669,  
fine levied of the premises in the latter, but not in the first  
deed. Sir R. the father settles the estate in the first deed on  
a second wife for life. Thirty-first May 1698, sir R. A. the  
father demises by lease of this date, reciting the premises in  
the before-mentioned indenture of release of twelfth June  
1669, to T. R. and J. Dacres all, &c. for life, at the yearly  
rent of, &c. to preserve the remainder limited to the right  
heirs of sir R. A. the father, &c. from being barred by  
recovery. Eighth June 1698, J. Dacres, one of the lessees,  
grants a letter of attorney to J. B. to take livery and seisin  
of the premises so demised, for himself and the other lessees  
for life. Fifth July 1798, sir R. A. delivers seisin accord-  
ingly. Lessee paid no rent. Twenty-seventh May 1708,  
sir R. A. the father, made his will, whereby he devises his  
said reversion of the said leased estate to the lessor of the  
plaintiff. Ninth February 1709, sir R. A. the father died  
seised. Eighteenth May 1710, R. A. the son, and execu-  
tor of sir E. A. surviving trustee of the terms in second deed,  
by indenture grants the manor in question to Joseph Walker  
for the remainder of the term, in trust for sir R. A. the son,  
in tail male special. Trinity term 1710, sir R. A. the son,  
recovered the premises in question, in *ejectment*, against  
Dame Ann Atkins, through the medium of John Phillips,  
the lessee of plaintiff. Sir R. A. the son entered on J. P.'s  
surrender. Seventeenth January 1710, sir R. A. the son,  
by indenture enfeoffed James Earl in fee of the premises in  
question as tenant of the *præcipe* for suffering a recovery  
thereof to the use of sir R. A. in fee. Hilary 1710, such  
recovery was suffered. Ninth November 1711, sir R. A.  
the son, died without issue male. Hilary 1711, and Easter  
1712, John Miles, on the demises of Ann A. widow, and  
Thomas Dacres, surviving lessee under indenture of lease of  
thirty-first May 1698, recovered premises in question in  
*ejectment*; whereupon Ann A. entered, and ninth October

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1712, died; whereupon R. A. nephew and heir male of sir R. A. the son and heir at law of sir R. A. the father, entered, and sixteenth May 1753 died. J. D. R. D. and T. D. die. John A. lessor of plaintiff for the first time entered fifteenth December 1752, as devisee of sir R. A. the father; and thereupon, sixteenth same December, demised to plaintiff.

*Ibid.* 60 to 74

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Lofft's Rep. 657  
Com. Rep. 205  
2. Stra. 1253  
1. Stra. 318  
Ld. Raym. 1485

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3. Ld. Ray. N. Ed. 211

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*Ibid.* 154

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Imp. B. R. 503

*Ibid.* 657, 658

*Ibid.* 698

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*Ibid.* 699

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